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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 181

DATE: Tuesday, February 6, 1990

BEFORE:

M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member

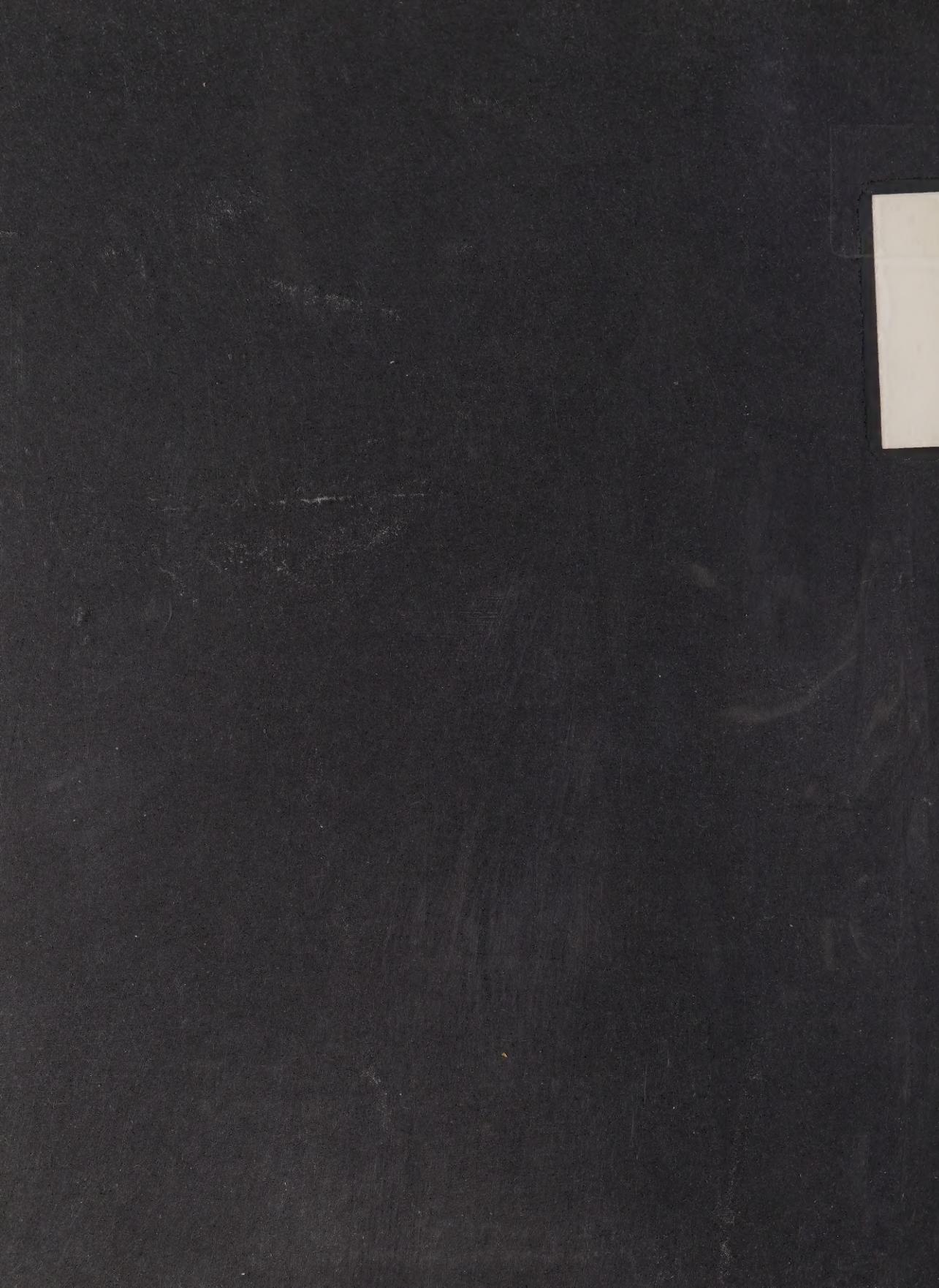
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

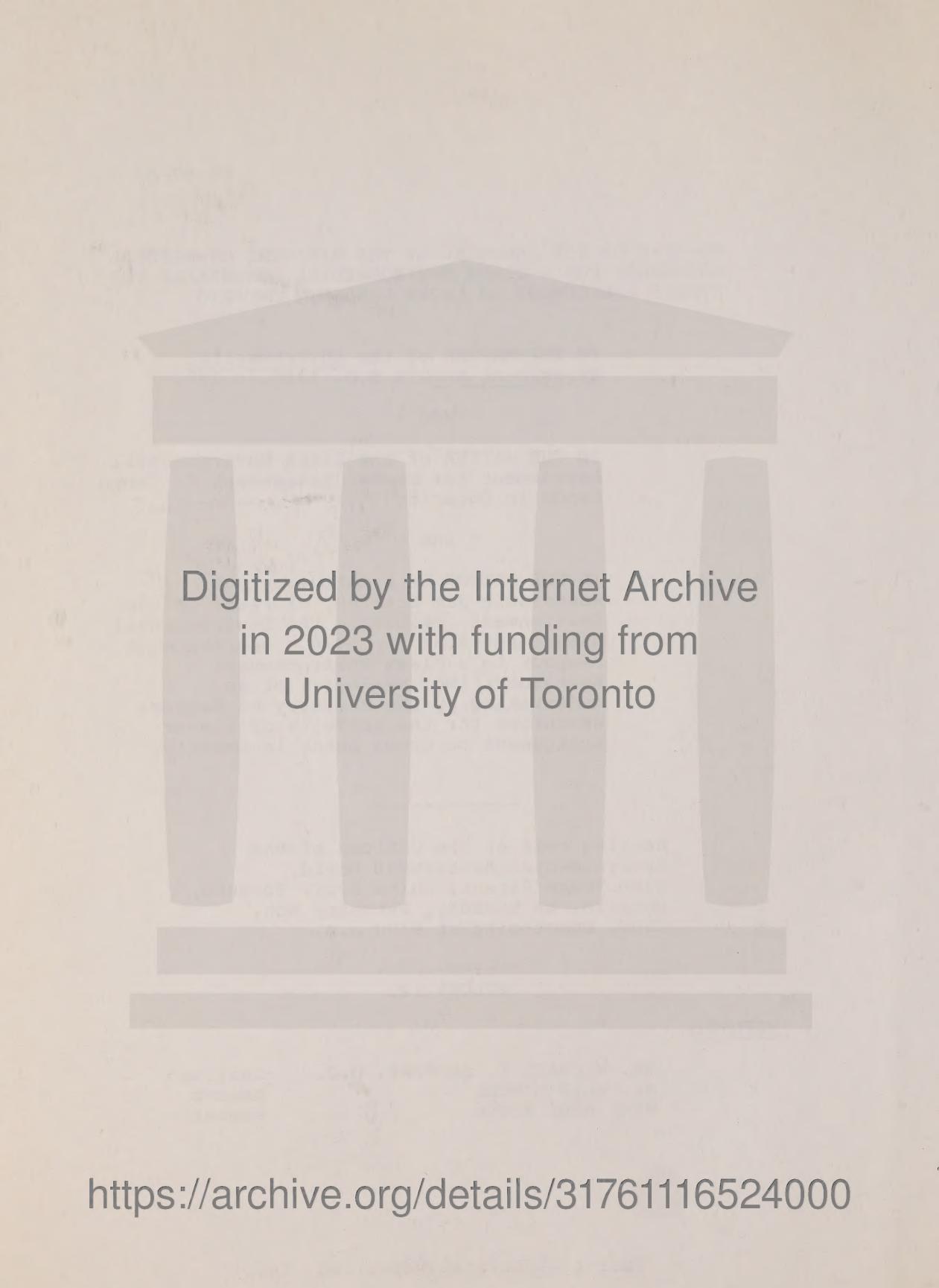
IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Offices of the
Environmental Assessment Board,
2300 Yonge Street, Suite 1201, Toronto,
Ontario, on Tuesday, February 6th,
1990, commencing at 9:00 a.m.

VOLUME 181

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

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I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1040	Document prepared by Mr. Macdonald re: breakdown of contributions to regeneration over and above contributions by Ontario government.	32062
1041	Excerpts from the Waste Water Discharge Summary for 1988 published by the Ministry of the Environment, December 1989.	32107
1042	Summary of spills and notifications reported to the Spills Action Centre of the Ministry of the Environment occurring between February 1988 and? February 1989.	32113
1043	Excerpt from the Ninth Annual Report of the Advisory Council on Occupational Health and Occupational Safety.	32115
1044	Annual Report of the Forest Product Accident Prevention Association.	32180

1 ---Upon commencing at 9:00 a.m.

2 THE CHAIRMAN: Thank you, ladies and
3 gentlemen. Be seated, please.

4 Well, ladies and gentlemen, yesterday the
5 Board indicated that it would give consideration to the
6 order of cross-examination, and after deliberating last
7 night and reviewing our concerns, we have decided that
8 the Ministry of the Environment will retain their
9 normal position and go last.

10 We feel that the Ministry of Natural
11 Resources, which has the right of reply in this case,
12 can rectify any situation that they feel has somehow
13 prejudiced them by the Ministry of the Environment
14 going first, and we feel that the Ministry of the
15 Environment as one of the lead agencies responsible for
16 environmental protection in this province should have,
17 for the Board's benefit, the benefit of hearing all of
18 the other parties preceding it and then the Board
19 should have the benefit of hearing the Ministry of the
20 Environment's views on the matters in issue.

21 So that, as far as the Board is
22 concerned, will be the order of presentation. Thank
23 you.

24 Now, we are ready to go.

25 Good morning, Panel.

1 MR. COSMAN: Yes, Mr. Chairman. I have
2 spoken to Ms. Swenarchuk and there are just a few
3 matters overnight that I would like to put to the
4 panel, some in clarification of some of the points
5 made. There were a few corrections and just a few
6 additional matters, but it should be not more than 10
7 minutes.

8 THE CHAIRMAN: Very well.

9 ROBERT LAFRENIERE,
10 EDWARD F. BOSWELL,
11 K. LINN MacDONALD, Resumed

12 CONTINUED DIRECT EXAMINATION BY MR. COSMAN:

13 Q. First of all, Mr. Boswell, you
14 brought to my attention a correction that should be
15 made with respect to your evidence as to fire fighting,
16 and I wonder if you might just explain that to the
17 Board?

18 MR. BOSWELL: A. Yes, Mr. Chairman. I
19 was asked yesterday to describe the mechanism by which
20 our employees fought fires and the costs that were
21 involved by the company. I think I gave you some wrong
22 information, I would just like to review so that it's
23 absolutely clear.

24 When a fire occurs, our trained crews go
25 immediately to that fire and they are paid by us for
the remainder of that day, and then we bill the

1 Ministry at the recognized Ministry rates for fire
2 fighting which are, in almost all cases, well below
3 what those people are earning and we absorb the
4 differential in the cost. And once the fire has -- if
5 it's a fire that continues, then our people go on the
6 fire at the Ministry rates.

7 And, as I told you yesterday, the company
8 covers all the costs of a full-time fire protection
9 supervisor, all the costs of fire training for our
10 people, the equipment costs that we have for the
11 equipment we have on our FMAs in readiness for fires,
12 and fire prevention advertising and, of course, all the
13 overheads associated with that.

14 So that's exactly the way it works, Mr.
15 Chairman, and I don't think it was the way I described
16 it yesterday.

17 THE CHAIRMAN: Thank you.

18 MR. COSMAN: Secondly, Mr. Chairman, I
19 wonder if you might take out the exhibit that was
20 marked yesterday, I think it was 1037. It is the
21 Interrogatory Question 18 from Forests for Tomorrow.

22 THE CHAIRMAN: 1037 I have as the list of
23 the contributions to the community.

24 MR. COSMAN: Oh, I have the wrong one.
25 Let me just show you what it is. Mr. Cassidy keeps

1 track of these things, he isn't here at the moment.

2 MS. SWENARCHUK: 1036.

3 MR. COSMAN: 1036, thank you.

4 Yes, Mr. Chairman, with respect to that
5 interrogatory, I didn't deal with the -- or put any
6 explanation before you, as I was reminded last night,
7 and I thought I would just show you how it works for
8 your assistance and that of anybody else.

9 But the question was:

10 "Kindly provide quantitative data to
11 support the statement (on page 17) that
12 the Ontario product is high cost, and
13 specifically, that the cost factors
14 listed (on page 18) are high in Ontario
15 relative to those of your competitors."

16 And the answer is:

17 "Attached are tables excerpted from the
18 FORSIM Review..." which comes out of
19 Stamford, Connecticut, Mr. Chairman,

20 "...October 1989, published by Resource
21 Information Systems Inc."

22 And what you have are a series of tables
23 and it is A to E, but they are not marked as A to E and
24 that's part of the problem.

25 You will see there are five tables. The

1 first one is that of U.S. Inland Dimension Lnumber
2 Mills. If you look at the top of the page, right under
3 Table 14 you will see where it comes from.

4 And just to put it in context. If you
5 look at the next one, it's U.S. Southern Yellow Pine
6 Lumber Mills; the third one is British Columbia
7 Interior Softwood Lumber Mills; the fourth one is
8 Ontario Softwood Lumber Mills; and the fifth is Quebec
9 Softwood Lumber Mills.

10 Then if you go back to the first one,
11 let's take the U.S. Inland Dimension Lumber Mills
12 first, and perhaps just for our purpose, if you look
13 at -- let's deal with 1989 only.

14 If you look at 1989, and if you follow
15 down, three figures down you will see the figure 145,
16 that is the total wood cost, that is the total wood
17 cost delivered to the mill, that's for U.S. Inland
18 Dimension Lumber Mills, 145, it's dollars per thousand
19 board feet. So if you just circle that one, 145.

20 If you go to the next page, the
21 comparable would be 154 for U.S. Southern Yellow Pine
22 Lumber Mills; for British Columbia, on the next page,
23 Table 17, B.C. Interior Softwood Lumber Mills, the
24 comparable is \$168 per thousand square feet.

25 Now, the next page is Ontario Softwood

1 Lumber Mills and Ontario has a different reporting
2 system. But I am advised that you look at total
3 delivered wood costs. It doesn't have the breakdown in
4 the same fashion of stumpage and harvest and total wood
5 costs, but if you look at the total delivered wood
6 costs for 1989 is \$200 per thousand square feet and,
7 again, the comparables for Quebec on the same basis is
8 195.

9 And that puts in it context, Mr.
10 Chairman, with respect to the quantitative support for
11 the statement that was made in the witness statement.

12 Thirdly, Mr. Chairman, with respect to
13 Mr. Macdonald's evidence yesterday, Mr. Martel asked if
14 he would prepare a breakdown of the information that
15 was provided with respect to contribution of Industry
16 to regeneration over and above that which is
17 contributed by the Ontario government.

18 And, in so doing, that has been done over
19 night, we have that breakdown to file with you and I
20 believe also there is a correction in the total amount.
21 Perhaps we can ask Mr. Macdonald to explain that.

22 MR. MACDONALD: Yes, Mr. Chairman. The
23 number I gave yesterday of \$39-million included both
24 the company contribution to road construction and to
25 regeneration, and I understand that the question

1 specifically was the contribution to regeneration. The
2 numbers you will see on this statement is \$8.5-million.

3 MR. COSMAN: Mr. Chairman, I will file
4 then as the next exhibit the information that was
5 prepared at the request of Mr. Martel last night.

6 THE CHAIRMAN: Thank you. That will be
7 Exhibit 1040.

8 ---EXHIBIT NO. 1040: Document prepared by Mr.
9 Macdonald re: breakdown of
10 contributions to regeneration
over and above contributions by
Ontario government.

11 MR. COSMAN: Q. And just so I am clear,
12 Mr. Macdonald, you have broken it down in what fashion,
13 having regard to this last exhibit?

14 MR. MACDONALD: A. It is broken down by
15 FMA and by year. So the first 10 lines at the top deal
16 with Iroquois Falls FMA showing the net expenditure on
17 silviculture activity by year, similarly for the
18 Lakehead Woodlands, and at the bottom we had an FMA at
19 White River for two years before the White River
20 sawmill was sold to Domtar.

21 Q. And the bottom line is that the
22 company contributed \$8,525,000 of its own revenues to
23 regeneration, that's over and above any amount that was
24 paid by the Ministry?

25 A. That is correct.

1 Q. So the other \$31-million which made
2 up the \$39-million figure that you referred to
3 yesterday, is that the contribution of the company to
4 road building over and above any amounts paid for by
5 the Ministry?

6 A. That's also correct.

7 Q. Thank you.

8 THE CHAIRMAN: So the \$39-million did not
9 include any amount for regeneration?

10 MR. MACDONALD: Yes. The 39-million
11 included the 31-million net contribution by the company
12 to road construction and this 8-million--

13 THE CHAIRMAN: And then the eight, okay.

14 MR. MACDONALD: --to regeneration.

15 THE CHAIRMAN: Thank you.

16 MR. COSMAN: Finally, Mr. Chairman, we
17 reserved a spot, I think it's 1039, for the Statement
18 of Environmental Policy of the Ontario Forest
19 Industries Association. I wonder if I might file that.

20 (handed)

21 THE CHAIRMAN: Thank you.

22 MR. COSMAN: And perhaps, Mr. Chairman, I
23 just ought to more formally prove the document by
24 asking Mr. Boswell, who is Chairman of the Board of
25 Directors of the Ontario Forest Industries Association,

1 as to what this document is, how it came into
2 existence, when and why?

3 MR. BOSWELL: Yes, Mr. Chairman. This
4 document, in the minds of the members of the Board of
5 Directors of the Ontario Forest Industries Association,
6 represents a confirmation of what the individual
7 companies were doing in the environmental area, had
8 been doing for some time.

9 It is in fact a formalization of those
10 policies that existed with each and every individual
11 company and the need for the formalization was simply
12 because of the high degree of interest amongst the
13 citizens of Ontario and, indeed, this country
14 surrounding environmental matters.

15 So the board felt that it was important
16 to formalize and put in a policy statement exactly what
17 are our position as an association is, and that was
18 formalized in September of last year.

19 The three fundamentals upon which the
20 policy is based are the planning that we commit to for
21 environmental considerations being an important and
22 essential part of the decision-making process, and the
23 companies have committed to minimize the adverse
24 environmental practices, environmental impacts of their
25 activities and to provide an environmentally sound

1 workplace and that verges on the commitment to the
2 health and safety commitment that this industry makes
3 and each and every individual company makes surrounding
4 health and safety.

5 And the third fundamental is that the
6 companies will have agreed through this policy to
7 communicate with employees, customers, shareholders,
8 governments and the public regarding the environmental
9 concerns. And based on those three fundamentals we
10 have described nine areas upon which the policy -- nine
11 areas which support those three fundamentals.

12 . The first one is planning, and thereby we
13 recognize the environmental needs and we will assess
14 the impact; forest management, to which you are very
15 familiar by now and how we will plan and conduct our
16 forest management activities, including the three
17 areas -- the four areas that are part of the
18 environmental assessment undertaking; and the mill
19 environmental measures and how we will implement
20 technically sound procedures to deal with the processes
21 of our mill environmental matters, emissions and the
22 quality surrounding them, and the standards, that we
23 are prepared to work with government and to develop
24 scientifically and economically sound regulations and
25 standards protecting the environment; corrective

1 action, should it be required, to reduce potential
2 hurtful things coming from environmental incidents and
3 what we will do in the case of those incidents.

4 Research, which the industry is fully
5 committed to, all the members of the association, the
6 research encouraging and supporting work to develop
7 environmentally sound techniques and processes and
8 procedures. And that's probably one of the very basic
9 fundamentals, Mr. Chairman, in terms of the technology
10 involved with environmental issues, that it is not a
11 simple matter and we have some companies with their
12 individual research organizations and the total
13 industry is committed to several research organizations
14 in the area of processes of mill emissions in terms of
15 safety matters.

16 The Forest Engineering Research Institute
17 is working and has developed many devices and schemes
18 to help reduce the kind of terrible disabling injuries
19 that the industry experienced in past years and is
20 still prone to in forest operations, and that they have
21 developed some good work there.

22 And utilization, that we commit to
23 utilizing all of the resources that we do have access
24 to in an efficient and non-wasteful manner. The
25 multiple use concept, which has been put before this

1 Board on many occasions I know, that we practice and
2 support multiple use of forest lands and, indeed, that
3 is a confirmation of what the industry has said for
4 many, many years and the statement with respect to
5 communication, where this industry wants to communicate
6 and to encourage public participation in all areas
7 surrounding environmental matters and that, of course,
8 is confirmed in what you will see later in our terms
9 and conditions.

10 MR. MARTEL: Could I ask a question. Is
11 this policy governed by self-compliance or do you
12 intend to audit it yourselves; or just based on good
13 faith, having accepted it, all of the member companies
14 in fact will live up to the obligation in this
15 statement?

16 MR. BOSWELL: Yes. It is not formalized
17 in the sense of an audit, that the Association carries
18 out on audit on each other. However, any member
19 company, I would suggest, that were to fly in the face
20 of this would certainly meet informal reprimands from
21 the other member companies as we have committed to this
22 policy and stand by it as an Association and don't want
23 to see that jerry-maundered in any way.

24 MR. COSMAN: Q. And, Mr. Boswell,
25 finally, is the area of communication to the public as

1 to what the Industry is doing in these areas something
2 that has been a matter of concern?

3 MR. BOSWELL: A. The area of
4 communication to the public has been of great concern
5 to the Industry for many years, Mr. Chairman, and I
6 don't pretend that we have done a good job in
7 communicating policies such as this or other policies.

8 Our forest management practices I think,
9 our communications effort would leave a lot to be
10 desired, but it is our intent surrounding
11 communications that those communications be as direct
12 and forthright with as many other users of the forest,
13 in the forest case, as possible and the industry had
14 shown, and varying by companies of course, but a
15 willingness to sit down and directly discuss issues
16 with other parties.

17 MR. MARTEL: Are you going to bring Mr.
18 Greeves back?

19 MR. BOSWELL: We have an excellent
20 President of our association at the moment and...

21 MR. COSMAN: Thank you, Mr. Chairman.

22 THE CHAIRMAN: Thank you, Mr. Cosman.

23 Ms. Swenarchuk?

24 CROSS-EXAMINATION BY MS. SWENARCHUK:

25 Q. Just picking up from where Mr. Cosman

1 · left off, and I think I'd ask each one of you this
2 question individually.

3 Mr. Lafreniere, I realize your company is
4 not a member of the OFIA. Would I be correct in
5 assuming that you are in general agreement with the
6 terms in their Statement of Environmental Policy?

7 MR. LAFRENIERE: A. Well, I can't say,
8 Mr. Chairman, if I'm in agreement or not because we
9 haven't adopted - an association which is separate from
10 the OFIA - a particular policy on environmental issue.

11 You know, we're concerned with the
12 environment as much as OFIA and other members of the
13 general public, but we have not sat down yet to
14 formalize a policy related to the environment as of
15 yet.

16 Q. All right. And have you personally
17 and now in your personal capacity had an opportunity to
18 look at the OFIA policy?

19 A. I have generally, not...

20 Q. Well, fine, I will confine my
21 questions then on this issue to Mr. Boswell and Mr.
22 Macdonald.

23 Mr. Boswell, first of all, following from
24 the issue of communicating with the public with regard
25 to industry environmental practices, would you agree

1 with me that a helpful form of communication could be
2 for your industry at the individual corporate level to
3 produce an environmental audit of your performance, for
4 example, on an annual basis and make it public and make
5 it available to your shareholders?

6 MR. BOSWELL: A. Mr. Chairman, the
7 exercise of individual company audits and what is
8 taking place there from company to company is probably
9 best described, in my opinion, as fairly disparate at
10 the moment.

11 However, in the case of my company, which
12 I can speak knowledgeably and not on behalf of other
13 companies, that those audits are being formulated, the
14 process by which we will conduct an audit is underway
15 in varying states of development at all of our Ontario
16 mills and, by the way, our other mills in Canada and
17 the United States, but in Ontario those audits are
18 being formulated.

19 We are almost at the point of finishing
20 an audit for the Espanola mill operations; that will be
21 ready some time this year. It will be forwarded to the
22 Board of Directors and, therefore, the shareholders and
23 we in the Eddy company put a great deal of emphasis and
24 importance on that internal auditing function
25 - surrounding all environmental matters which will

1 eventually be extended to include our forest management
2 practices as they can be quantitatively defined for an
3 audit.

4 Q. And when do you expect that to be
5 achieved, Mr. Boswell?

6 A. As I said, Mr. Chairman, depending on
7 the unit or the organization, it would be our endeavor
8 to have all of those audits on a formal basis some time
9 within the next two years. Some will be ready within
10 the next couple months and others will be somewhat
11 longer in the formulation process because we want to
12 get it right and we want to make sure that what we are
13 doing internally is meaningful, not only for our
14 shareholders but our customers and all the parties that
15 are involved in a public sense.

16 Q. So those audits will then be made
17 public; will they?

18 A. I think that that will not happen,
19 Mr. Chairman, immediately until we are satisfied that
20 the process is correct and based on solid technical and
21 quantitative data.

22 Q. Wouldn't you agree, Mr. Boswell, that
23 that would be though exactly the type of information
24 that would assist the company in communicating with the
25 public and with reassuring the public that in fact full

1 and complete information about company practices is
2 available?

3 A. Where it affects the public or public
4 policy, Mr. Chairman, I would agree with the counsel
5 that that would be important, but the structuring of
6 audits is not a simple matter.

7 It's a relatively new endeavor in the
8 environmental field and we want to get it right because
9 there could be more harm done if the public doesn't
10 understand the technology and the quantitative data
11 going into those audits and how they were constructed
12 and on what basis.

13 Q. And wouldn't it be possible to
14 include explanatory sections in the unit so that the
15 public could have accurate information about that and
16 make informed judgments, Mr. Boswell?

17 A. There are other areas outside the
18 audit process, Mr. Chairman, where we would as a
19 company be prepared, obviously, to share sensitive
20 environmental information with the public, not
21 necessarily through the audit process.

22 There are many other mechanisms for so
23 doing, and I guess one of the things that you will see
24 later on is -- for doing that is in our terms and
25 conditions and what we recommended to do there.

1 Q. Well, Mr. Boswell, I think that we
2 support totally your position in the OFIA Statement of
3 Environmental Policy that communication from the
4 companies to the public would ameliorate some problems
5 that presently exist with regard to public versus
6 corporate attitudes towards environmental protection.

7 I would suggest to you again that the
8 more complete information the company provides, the
9 better, the more likely it is that those differences
10 would diminish.

11 If you're not prepared to release
12 internal audits, what type of information paths does
13 OFIA foresee? I understand your reference to terms and
14 conditions in this hearing, any other mechanisms?

15 A. I would think, Mr. Chairman, that the
16 mechanisms that we have used in the past to share
17 knowledge and to gain knowledge indeed in the sensitive
18 environmental issues is probably the most important
19 one, and that is sitting down with the concerned
20 parties and talking out the problem and trying to find
21 a joint accommodation.

22 And that isn't new, that is something
23 that has gone on and invitations have been extended on
24 both sides of an issue by Industry, certainly my
25 company, and other users and we have been invited by

1 other users to come to the table and talk out these
2 issues. And it has been our experience that that has
3 been a most rewarding exercise in terms of face-to-face
4 contact and we would put great importance on that and
5 continue to do so.

6 So that without the formality of audits
7 or the formality of reports, if some of these problems
8 are to be addressed properly, the only way, in the Eddy
9 company's opinion, is to sit down with the other
10 parties and let's have it out.

11 Q. Well, Mr. Boswell, I understood you
12 to say earlier with regard to your OFIA Statement of
13 Environmental Policy that with regard to communication
14 to the public you used words to the effect that you
15 haven't done a good job up to now.

16 I guess my question would be: How does
17 OFIA foresee changing its communication policies with
18 the public to do a better job?

19 A. By continually, Mr. Chairman, putting
20 ourselves in the position to answer questions, to
21 provide information. The Association has just hired a
22 communications person to re-double our efforts there so
23 that when people want information, when the public, our
24 customers or anybody else interested in the activities
25 of the Association want information, that they can get

1 it in an articulate form and an understandable form,
2 and we have put a great dealt of emphasis on that in
3 the Association in the last little while and that's an
4 ever continuing undertaking.

5 Q. Mr. Macdonald, with regard to
6 Abitibi-Price, I'd ask you the same question. Do you
7 think Abitibi-Price would be prepared to produce for
8 public review an audit of corporate performance on
9 environmental matters?

10 MR. MACDONALD: A. In terms of the
11 general issue of communication on this, I would just
12 like to quote one paragraph from our own policy that:

13 "We believe in communicating our programs
14 and policies to employees and
15 communities, the government and the
16 public and we believe we have a
17 responsibility to listen to the views of
18 those interested in our activities and we
19 do so through open houses and other
20 meetings with interested parties."

21 I think that the shareholders of a
22 company expect the management of the company to manage
23 well and they do not normally require audits in many
24 areas. Certainly a financial audit is one that is
25 required of every company, but our shareholders don't

1 ask us to do an audit of how well we are selling the
2 product versus our competitors and how well we are
3 implementing technology and so on; they expect
4 management to perform in accordance with its policies
5 and commitments.

6 However, as we move toward environmental
7 audits for our own internal purposes, we recognize the
8 need to audit against specific standards. It's
9 difficult to audit something in a void and/or against
10 expectations which can vary widely.

11 I think this is the stage we are at right
12 now in terms of auditing environmental performance,
13 that we, in conjunction with the Minister of the
14 Environment, are developing exactly what expectations
15 are. The MESA program is one example of that and this
16 whole activity is another. As those specific
17 guidelines, expectations are formalized, then it is
18 more reasonable to audit against them.

19 I do agree with Mr. Boswell that once we
20 reach that stage we would want to be sure that it was a
21 sound representative audit and was appropriate, and we
22 would further want to ensure that it was not released
23 until any competitive -- any information that might
24 provide a competitiveness advantage was looked at very
25 carefully.

1 THE CHAIRMAN: Mr. Macdonald, I'm getting
2 a sense from both your statement and Mr. Boswell's
3 statement that part of the problem with the
4 environmental audit process is that there are no
5 criteria that are universally accepted as to what
6 should constitute the audit, how it should proceed, the
7 methodology, et cetera.

8 And, Mr. Boswell, is it a plan of your
9 Association at some time to spend some effort in
10 developing just that, a standardized form of
11 environmental audit for the type of practices your
12 member companies carry out which would then be the
13 basis upon which the companies would carry out the
14 environmental audits?

15 So when you see an audit from one company
16 as opposed to one from another company, you are
17 basically working from the same blueprint in terms of
18 what you are looking at, the criteria for evaluation
19 and what the audit would in fact disclose, bearing in
20 mind Mr. Macdonald's last comments that competitive
21 financial information is extracted from it in advance
22 and that kind of thing.

23 But it seems to me that some of the
24 reluctance on the part of certain companies to carry
25 out environmental audits would be that another company

1 carrying out an audit themselves would be looking at
2 different things and portraying the information in a
3 different way, and you really would be faced with the
4 fact that one company perhaps puts an audit out that is
5 well received as opposed to somebody that puts an audit
6 out that is not well received, not necessarily because
7 of the information contained in them, but the way they
8 went about it.

9 Is it something that the Association
10 would be looking at in the future to standardize, the
11 environmental audit approach?

12 MR. BOSWELL: I would think not, Mr.
13 Chairman. An audit would be an integral part of our
14 business plan as a company, and while there may be a
15 general standardization as to how audits are carried
16 out internally, it would be in great part related to
17 the legal process that may be required in the future.

18 A. I wouldn't think it would be functional
19 or even proper to try and standardize those audits
20 across the industry any more than it would be to try
21 and standardize the way Mr. Macdonald markets his
22 products and I market mine, because we are in
23 essentially the same generic business but, in fact, we
24 are in very different businesses from site to site and
25 from mill to mill and would have different requirements

1 in that audit to be meaningful to the public.

2 But the format I think - if that is what
3 you are driving at - once the regulatory system and
4 processes such as we are going through here today
5 better define targets and standards and as we become
6 more sophisticated with our technological know-how,
7 then that would all be built in, but I think to get a
8 standard across the industry would be indeed very
9 difficult and may delay the whole process, Mr.
10 Chairman, as opposed to certain companies taking a lead
11 with their audits.

12 It may make it a more confusing exercise
13 in trying to get a standardized audit, unless you are
14 talking in overall general generic terms, but I would
15 think that could provide -- or present a rather
16 delaying tactic, and some of us feel very important
17 that we get on with that exercise internally in our
18 companies. And I wouldn't want to create my audit
19 process and put together the whole structure
20 surrounding audits, be it in the mills or in forest
21 management, and then be subject to an industry saying:
22 Well, no, that is not right because we are going to do
23 it this way, and I start all over again.

24 I think to get on with this we would be
25 all well served as companies come forward one by each

1 and get it done.

2 MS. SWENARCHUK: Q. Mr. Macdonald, on
3 the last page of your witness statement, page 42, the
4 last sentence in fact - that is 1030A, Mr. Chairman -
5 you use the phrase 'sustainable development in the
6 northern part of this province'. And we asked you an
7 interrogatory, which I have not copied because the
8 response is brief on the meaning of sustainable
9 development as you used it on this page? And your
10 reply -- or the reply was:

11 "The term sustainable development is
12 defined as the harvesting and renewal of
13 the forest land base to maintain the
14 economic livelihood of the people of
15 northern Ontario."

16 And what I wanted to ask you, Mr.
17 Macdonald, is whether a certain level of economic
18 livelihood is implied in that statement?

19 MR. MACDONALD: A. Certainly I am not in
20 a position to precisely define a level but, yes, I
21 think that that is fair, that a certain level of
22 economic livelihood is implied.

23 MR. COSMAN: Sorry, he hasn't finished.

24 MR. MACDONALD: No, I was.

25 MS. SWENARCHUK: Q. And would that level

1 be at the current level or could you describe a little
2 further what you have in mind?

3 MR. MACDONALD: A. The current level of
4 economic livelihood varies widely from the employees of
5 my company and others in the pulp and paper industry
6 who are reasonably well paid by any standards, to some
7 other people who are employed in the area. That is an
8 unfortunate situation. I don't think that the forest
9 industry can single-handedly take on an obligation to
10 change that circumstance.

11 Q. With reference to your own employees
12 and your own business, do you foresee changing levels
13 of investment by your own company so as to impact
14 either positively or negatively on the levels of
15 economic livelihood that your company now provides to
16 its employees in northern Ontario?

17 A. I talked yesterday about the levels
18 of investment that have continued in northern Ontario
19 both in our mills and in our woodlands operations, they
20 are extensive over time, and even if you look at the
21 few years, the pattern is accelerating if anything.

22 A lot of that investment goes into
23 modernizing and making facilities more competitive,
24 mechanizing and automating operations and, in some
25 cases, that is accompanied by an expansion of the

1 output; in some cases it's not that, so that there may-
2 be an increase in the total employment if there is an
3 expansion or if the expenditure is related particularly
4 to a modernization there may be a reduction in the
5 employment.

6 Frequently when there is a reduction it
7 is coupled with fewer but more highly trained operators
8 and the industry has a system in place of evaluating
9 jobs which usually results in a higher rate of pay as
10 someone is more trained and more responsible for what
11 they are doing.

12 So that we really -- it's not easy to
13 give a simple yes or no answer. There may be an
14 increase in employment, there may be a decrease; in
15 either case it's more likely that the compensation rate
16 will increase rather than go down.

17 Q. When you use the phrase 'sustainable
18 development', do I take it then that you are not
19 including in that phrase any indication that community
20 stability, to the extent that it now exists in the
21 north in relation to your company's activities is --
22 let's say, the continuation of that community stability
23 is a goal of the company, looking at community
24 stability overall as opposed to simply employment/wage
25 rates.

1 A. Sustainable development, I think,
2 refers primarily to the concept of the fact that the
3 forest is a renewable resource and if properly managed
4 can continue to provide for a level of activity into
5 the indefinite future and, as such, continue to provide
6 jobs and support for the individual communities where
7 the people who work in those woods operations or those
8 mills live.

9 I talked yesterday about our support for
10 the communities, our efforts to minimize the impact on
11 the communities of any reduction in employment in a
12 mill or woodlands operation, our successful efforts, I
13 think I can say, and our support in other forms,
14 financial and others for the communities.

15 There definitely is a dedication to a
16 long-term approach to our operations and to the
17 communities that are involved and, that is why the
18 forest management and the concept of sustainable
19 development is so important to us.

20 Q. So do I understand then that it is
21 the approach of your company to have some concern for
22 long-term community stability in those areas of the
23 north where your company operates?

24 A. Yes.

25 Q. Now, this panel and all of us have

1 heard a considerable amount of evidence about the
2 transition phase that we are in in Ontario between
3 harvesting a largely natural forest and movement
4 towards the managed or normal forest as our MNR
5 foresters describe it. And the Board has been told by
6 numerous foresters that we should expect within the
7 period of the first rotation, as we move towards this
8 theoretical normal forest, fluctuations in wood supply,
9 fluctuations which in theory will diminish once we have
10 a normal managed forest.

11 So coming back to the question of
12 sustainable development and community stability, what
13 does your company foresee in terms of fluctuations in
14 wood supply related to this process of moving towards
15 the theoretical normal forest during this first
16 rotation?

17 A. First of all, I have to repeat what
18 Mr. Cosman said yesterday, that I am not a forester and
19 I am not involved in detail in the forest planning --
20 forest management planning process in each FMA, but I
21 am not aware of any anticipated fluctuations in wood
22 supply that would jeopardize the communities or our
23 operations as we see them continuing.

24 There is always a potential for
25 fluctuations due to fire, insect or some cause that we

1 can't anticipate, but I am not anticipating in the
2 normal course of events fluctuations in wood supply
3 that would impact on operations.

4 Q. And, Mr. Boswell, could you indicate
5 your view of that problem?

6 MR. BOSWELL: A. Yes. In general terms,
7 Mr. Chairman, I am not familiar with the precise
8 details, but I am aware of the implications of the
9 questions being asked here in terms of the
10 normalization of the forest.

11 When we entered into the forest
12 management agreement we did understand that there would
13 be a -- in our particular case - and I don't believe
14 it's true across the province, it's not necessarily a
15 province-wide thing - but, in our particular case, that
16 there would be that fall-off in fiber supply.

17 I believe that we are forecasting that to
18 start having effect soon, the turn of the century.
19 Knowing that and trying to establish quantitatively
20 what that would be, we still went ahead with a
21 \$200-million renewal of our facilities at Espanola,
22 have continued to strengthen the productive
23 efficiencies of our sawmills.

24 But I guess as I described to you
25 yesterday, we are looking at alternative fibers, and

1 indeed as I described to you yesterday, Mr. Chairman,
2 we have increased the use of poplar substantially, so
3 that at least we know how to deal with that fiber.

4 And there are many other ways that we can
5 cope with that potential diminution of fiber available
6 to us, and as time goes on and as we see the
7 quantitative successes of the managed forest that
8 counsel talked about, then we will better be able to
9 work that into our figures.

10 But to forecast that precisely with such
11 an undertaking as the forest managements are, is a
12 difficult exercise, but as the figures come in and as
13 we quantify the growth of that managed forest, then we
14 put those figures into the equation and better cope
15 with the potential that we did see originally as we
16 entered into the FMAs.

17 But, having said, that we were still
18 confident enough to spend hundreds of millions of
19 dollars on our facilities in northern Ontario and we
20 are committed to the communities we work in.

21 Q. Mr. Boswell, could you give us some
22 indication of what scale of fall-off your company is
23 projecting now?

24 A. No, I am sorry, Mr. Chairman, I don't
25 have those details. That is a very detailed and

1 technical calculation that is changing all the time and
2 I am not aware of precisely what those figures are.

3 Q. Could we take it then though, that
4 E.B. Eddy is not at this time anticipating a major
5 problem of wood supply around the turn of the century?

6 A. Mr. Chairman, if the question is
7 asked in the context of the normalization of the
8 forest, we think we can cope with that. If there is a
9 continuing demand from other users for more and more
10 land base, that could compound the problem
11 significantly.

12 So they are two quite separate and
13 distinct items in my mind, Mr. Chairman.

14 THE CHAIRMAN: Is what you are saying if
15 the land base remains relatively constant as it is now
16 you are not forecasting a shortage, but if there is
17 increased use of the land base for other than forestry
18 purposes and demand stays as you forecast, there may be
19 a shortage. Is that what you are saying?

20 MR. BOSWELL: Not quite, Mr. Chairman,
21 because you referred to 'constant as it is now', and it
22 is for ever changing with the areas of concern that are
23 being added to the timber management planning process
24 year-by-year and period-by-period so that's in a
25 constant state of flux, it is not - as I am sure you

1 and the Board are aware - it is not a fixed land base
2 at any given time.

3 MS. SWENARCHUK: Q. Isn't it also true,
4 Mr. Boswell, that the designation of a particular piece
5 of land as an area of concern does not, by any means,
6 necessarily require that that piece of land be removed
7 from the harvesting land base?

8 MR. BOSWELL: A. Mr. Chairman, I am not
9 so sure I am any longer technically competent to answer
10 that question, but I guess it depends on the area of
11 concern and why it was set aside.

12 And we know that there are multiple areas
13 of concern in generic terms and some are set aside,
14 what would appear to be semi-permanently, and others
15 maybe for a short period of time, but I am not
16 competent to answer the details surrounding the
17 designation of those areas of concern and what impact
18 they have over the long term.

19 Q. Mr. Lafreniere, can I ask you the
20 same question then about wood supply as it relates to
21 your company's needs during this period of the first
22 rotation and the move to the normal forest.

23 MR. LAFRENIERE: A. Well, I must state
24 like Mr. Macdonald I am not a forester but I will
25 attempt to answer generally in layman terms my view of

1 what the...

2 On the forest management agreement that
3 we signed three years ago it permitted our company, you
4 know, to have a more equalized production level, the
5 two companies actually.

6 And also as Mr. Macdonald stated, there
7 is an area of a drop-off within the first five years or
8 within the lifetime of the FMA. So I can't really get
9 into numbers or the logic behind it, but there is --
10 and presently I think, as far as the two mills
11 concerned in Chapleau, we have a fairly sustained
12 production. I don't think there is presently a concern
13 on wood supply.

14 Q. I didn't quite understand. Did you
15 mean that there is a fall-off projected during the
16 first five years of the FMA or some time during the 20
17 years of the FMA?

18 A. Well, I am not too sure, Mr.
19 Chairman, because I am not familiar with the period,
20 but I know there is a drop-off period where, you know,
21 once within the life of the FMA.

22 Q. I see.

23 A. Over the 20-year period.

24 Q. And your evidence then is at this
25 time your mills are not experiencing a wood supply

1 problem; is that right?

2 A. Well, presently we are not facing
3 wood supply problem depending on natural disasters and
4 concern areas and so on will, you know, decrease the
5 amount of areas over a period.

6 Q. But there may be a fall-off period at
7 some point in the future; is that right?

8 A. To my understanding, Mr. Chairman,
9 there will be.

10 Q. But you are not aware of the scale of
11 that?

12 A. No, I am not.

13 Q. All right.

14 Now, Mr. Macdonald, you might want to
15 have in front of you the Abitibi-Price Environmental
16 Policy which is Exhibit 1034.

17 Now, you make reference -- sorry, Mr.
18 Chairman. Now, you make reference in the second
19 paragraph of the policy to ensuring compliance with all
20 environmental laws and regulations.

21 Now, would you agree with me that one
22 area for environmental compliance in Ontario as regards
23 the pulp and paper industry is in regard to effluent
24 controls from the pulp and paper plant?

25 MR. MACDONALD: A. Yes, I do.

1 Q. And that unlike the American
2 regulatory scheme where the Environmental Protection
3 Agency has a national scheme for effluent standards, in
4 Ontario, in contrast, it has been the practice of the
5 Environment Ministry to, shall we say, negotiate
6 standards for companies to comply with really on a mill
7 by mill basis?

8 A. Yes, that would refer to what we call
9 control orders that are in place on a mill by mill
10 basis.

11 Q. Yes. And I believe both
12 Abitibi-Price and E.B. Eddy mills are now subject to
13 control orders; are they not?

14 A. Abitibi-Price is.

15 MR. BOSWELL: A. E.B. Eddy is, Mr.
16 Chairman.

17 Q. And, furthermore, that when we look
18 at the Ministry publications with regard to compliance
19 with control orders by pulp and paper companies in the
20 province, that Abitibi-Price mills and the E.B. Eddy
21 Espanola mills rank very well; is that not correct?

22 You don't want to disagree with me on
23 that I'm sure.

24 MR. MACDONALD: A. I don't want to
25 disagree with you certainly, but I personally haven't

1 compared the performance of our company against others
2 in the province, so I can't really answer.

3 Q. All right. Basically Abitibi-Price
4 mills are in compliance with their control orders; are
5 they not?

6 A. That is true.

7 Q. And, Mr. Boswell, I believe that that
8 is also true of the -- considering now the most recent
9 figures available, these are the 1988 publications by
10 the Ministry of Environment, that was also true of the
11 E.B. Eddy Espanola plant?

12 MR. BOSWELL: A. I believe that to be
13 true, Mr. Chairman.

14 Q. Is it not true however, Mr. Boswell,
15 that there is more difficulty or was in 1988 with the
16 E.B. Eddy Ottawa plant?

17 A. Mr. Chairman, I believe that there
18 may be more difficulty with the Ottawa plant, but I am
19 not fully familiar with the data there except to say,
20 as I understand it, we are in compliance, but I may be
21 wrong about that. Certainly if we are, I don't know --
22 if we are not in compliance, I don't know about it.

23 Q. Well, Mr. Boswell, I will give you a
24 chance to look at this document. I will distribute it
25 now. It's an excerpt from the Ministry of Environment

1 report on the 1988 Industrial Direct Discharges in
2 Ontario.

3 MS. SWENARCHUK: Mr. Chairman, I am just
4 looking for the copies. I will be a second.

5 MR. FREIDIN: Mr. Chairman, while she is
6 looking for that, was the Exhibit 1040 the
7 Abitibi-Price Summary of Company Expenditures and
8 Compensation under FMAs, was that actually assigned
9 that number?

10 THE CHAIRMAN: Yes, 1040 was that
11 document.

12 MR. FREIDIN: Thank you.

13 MR. COSMAN: Perhaps, Mr. Chairman,
14 before my friend hands any document to the Board I
15 might have a chance to look at it.

16 MS. SWENARCHUK: (handed)

17 MR. COSMAN: Mr. Chairman, if I may, I
18 just have a submission to make with respect to the
19 document my friend wants to put to the witnesses.

20 THE CHAIRMAN: Very well.

21 MR. COSMAN: Mr. Chairman, my friend Ms.
22 Swenarchuk provided to me last night a report to the
23 International Joint Commission on Effluent from Mills
24 which she indicated that she would be putting to these
25 witnesses.

1 It came by fax at 5:30 last night and our
2 clients -- or our witnesses did their best to
3 familiarize themselves with it overnight, even though
4 we had no other advance notice of that nor with the
5 issue of effluent from mills before this tribunal, and
6 I am not going to take objection, even though
7 technically I may have some right to do so, to her
8 putting questions to these witnesses in respect of that
9 particular document.

10 I am now being provided with, for the
11 first time, no notice to me or to these witnesses, with
12 a document which appears to be a discharge summary -
13 and, again, I don't want to take a technical position
14 because I want to ensure that this Board hears evidence
15 which it considers to be relevant - and to the extent
16 that the companies involved are and have provided
17 evidence that they are good corporate citizens doing
18 their best to comply with environmental controls and
19 environmental standards, to that extent I suppose
20 effluent or effluent from mills may be in some indirect
21 way an issue, but without giving these gentlemen the
22 chance to even look at it or talk to their people just
23 seems to me terribly unfair.

24 And, again, I am not going to take a
25 technical objection, subject to the opportunity to

1 perhaps review any specifics of information that my
2 friend wishes to put to these witnesses, but if there
3 is any other such documents I would like to know
4 because, again, this Board itself has made an order
5 that if any improper practice of a forest industry
6 company is to be the subject of evidence that we should
7 be provided with notice in advance.

8 THE CHAIRMAN: Well, with respect to this
9 particular document, Ms. Swenarchuk, the Board did in
10 fact, as you are aware, earlier on in these proceedings
11 make that ruling.

12 With respect to the document - and the
13 Board doesn't know the purpose for which you want to
14 elicit whatever facts are within this document, at
15 least the comments from these witnesses in view of the
16 fact they haven't had an opportunity to review the
17 document itself - we would certainly feel that they
18 should have that opportunity.

19 We can take a break at this time, Mr.
20 Cosman, to allow the witnesses to familiarize
21 themselves with this document. I understand it's not a
22 long excerpt that you are requesting them to look at.

23 MS. SWENARCHUK: One line.

24 THE CHAIRMAN: Although in the context of
25 the entire document it may also be important for them

1 to see the entire document.

2 MR. COSMAN: And I don't know if there
3 are any other documents, Mr. Chairman, as well.

4 MS. SWENARCHUK: There are several
5 others, similarly brief ones, and I have no objection
6 whatever to providing them to the witness.

7 If I could just, however, reply to Mr.
8 Cosman's submissions.

9 As Mr. Cosman is aware, we have provided
10 to him and to the Industry months ago in compliance
11 with the Board's original order regarding allegations,
12 allegations with regard to evidence that our witnesses
13 will be presenting with regard to environmental
14 practices by specific companies, and Mr. Cosman has
15 since written to me about that and there will be
16 further correspondence between us.

17 With regard to this matter, in my
18 submission, the witnesses have brought before the Board
19 the issue of their compliance with environmental
20 standards. It has been my view in the past as well
21 that perhaps the one issue and the only issue that was
22 not before the Board specifically was the question of
23 pulp mill pollution problems, and I don't intend to get
24 into it in any substantial depth, however, I think we
25 have seen the environmental policies of one of the

1 companies and the OFIA, the corporate group, and I
2 think we are entitled to look, at least to some extent,
3 OFIA having raised the issues of environmental
4 compliance, with one short look at the record. The
5 record is a very long one, I am not suggesting we look
6 at the entire record.

7 I think the issue has been put on the
8 table by the witnesses and, to that extent, we are
9 entitled to respond. Of course I am quite prepared to
10 give Mr. Cosman and the witnesses extra copies this
11 morning. As I say they are very brief documents and I
12 didn't think they would require really reviewing, but I
13 have no objection to that.

14 I would maintain, however, that those
15 issues having been put on the table, clearly it is very
16 important to the Board to explore with these gentlemen,
17 I think the only senior executives we are going to see,
18 the question of environmental compliance, corporate
19 attitudes towards it, corporate intentions with regard
20 to it, and that is going to be the subject of further
21 questions on my part.

22 I have one brief question on pulp mill
23 effluent and that is really all.

24 MR. COSMAN: Just in reply, Mr. Chairman,
25 just very briefly.

1 In my submission to you environment
2 merely because the companies and the Industry has put
3 on the table its environmental policies doesn't turn
4 this hearing into an examination of mills or, for that
5 matter, anything other than that which is the subject
6 of the class environmental assessment as defined in the
7 undertaking.

8 The concern I have is that if my friend
9 wishes to make that an issue, I certainly have not
10 prepared my case on that basis and it would be a very
11 different case that I would present.

12 If now I am obliged to present evidence
13 to meet allegations which, for the first time we are
14 seeing today with respect to these companies, but I am
15 not going to -- if it's brief and if it's only with
16 respect to the environmental practices generally of the
17 companies and how they respond to complaints in that
18 respect, I don't want to take an objection, I want
19 these witnesses to answer.

20 But surely, and perhaps we can get some
21 direction from the Board, we are not going to be
22 getting into the issue of mills or we are going to have
23 some extra time and I am going to need an adjournment
24 to prepare additional panels of evidence to deal with
25 those issues.

1 As far as my friend quite accurately
2 stated that with respect to allegations against forest
3 companies, she did provide a list some time ago. We
4 are waiting for particulars and my friend has indicated
5 to me she wouldn't be raising those issues with respect
6 to the first panel because in particular they are not
7 yet provided, and I understand they will be available
8 at the end of the month.

9 But in any event, what is on the table
10 now is something entirely separate from allegations of
11 woodlands forest issues.

12 THE CHAIRMAN: All right. Ms.
13 Swenarchuk, with respect to the specific allegations,
14 the Board understands that you and Mr. Cosman will be
15 dealing further with that issue in terms of
16 correspondence in terms of particulars, and that may
17 have to be addressed at a later date, but with respect
18 to your questions relative to this one panel, are these
19 questions solely related to the document that you have
20 just indicated that you want to file?

21 MS. SWENARCHUK: Yes, they are and might
22 I add just one further point.

23 I believe the witnesses have in their own
24 testimony referred to, whether directly or indirectly,
25 the questions of effluent control, page 22 for example

1 of Mr. Boswell's statement in the second last paragraph
2 talks about new effluent control provisions at the
3 Espanola plant and I believe there are references as
4 well in the Abitibi-Price witness statement.

5 So I think the issue is before you and I
6 think we can fairly examine to some extent, to the
7 extent that the issue has been raised.

8 THE CHAIRMAN: Well, what are we going to
9 do about the document you just tendered? Would it be
10 acceptable, Mr. Cosman, if we took a break at this time
11 to have your witnesses review that document?

12 MR. COSMAN: Yes, certainly.

13 THE CHAIRMAN: And then come back with
14 some generic questions in terms of that document. Is
15 that basically the area you are going to canvass at
16 this time?

17 MS. SWENARCHUK: Essentially, yes.

18 THE CHAIRMAN: Are there any other
19 documents they should look at at the same time?

20 MS. SWENARCHUK: One other similar, and I
21 will provide that as well.

22 THE CHAIRMAN: All right. We will take a
23 break at this time for half an hour to allow that to
24 happen.

25 Thank you.

1 ---Recess taken at 10:10 a.m.

2 ---On resuming at 10:50 a.m.

3 THE CHAIRMAN: Thank you, ladies and
4 gentlemen. Be seated, please.

5 Just before the Board proceeds, Ms.
6 Swenarchuk, we want to indicate on the record our
7 displeasure with the fact that OFAH has seen fit not to
8 have delivered its suggested conditions of approval
9 within the time lines established by the Board which
10 was January 31st. We have received a communication
11 from that party indicating that their suggested
12 conditions of approval will now not be delivered until
13 February the 12th.

14 That, in the Board's view, is serious.
15 We could, we think, refuse to accept them and not allow
16 that party to take part in the negotiations. That,
17 however, in our view, would not be in the public
18 interest. We realize that this will cause some
19 hardship to some of the other parties and we apologize
20 for that on their behalf.

21 We have decided to allow the suggested
22 terms and conditions to be filed, distributed by them
23 to the other parties no later than February 12th, and
24 it is a matter that we will address in the decision
25 ---that this Board renders ultimately. If this Board had

1 a cost power, which we don't, we would address it in
2 that context as well.

3 We cannot emphasize and over-emphasize to
4 the parties before this Board that it is important that
5 the time lines established by the Board for the
6 delivery of documents be adhered to. We have tried to
7 be lenient in special circumstances and it is reaching
8 the stage where if the parties do not comply, then we
9 are going to be taking steps to ensure that your
10 participation will not necessarily be to the extent
11 that you wish. It is the only way that any tribunal
12 can control the proceedings.

13 So the Board feels that although we have
14 covered this ground before in the context of other
15 deadlines, this one is serious and the Board finds no
16 reason whatsoever for it to have occurred given the
17 fact that all parties knew weeks, and I might say
18 months in advance that those conditions of approval
19 were required by such and such a date.

20 Now, we want to just deal briefly, since
21 we are on other than your cross-examination for the
22 moment, setting a date for a scoping session for Panel
23 3.

24 ---Discussion off the record

25 THE CHAIRMAN: The statements of issue

1 with respect to Panel 3, we are suggesting, should be
2 in fairly soon so that we can, in fact, conduct a
3 scoping session some time next week because the only
4 other time will be when the hearing resumes in March
5 and we will have been completed or Panel 2 will likely
6 be completed next week, so that we do not want to cause
7 a further delay.

8 So we are suggesting that the statements
9 of issue be in by Friday of this week with a scoping
10 session set for next Tuesday.

11 Any parties have any major difficulty
12 with that?

13 MS. SEABORN: No major problems, Mr.
14 Chairman, just one comment. Our interrogatories on
15 Panel 3, as I expect everyone else's, were filed on
16 February 5th, which was yesterday, we won't have had
17 obviously any interrogatory responses when we prepare
18 our statement of issues and I just want the Board to be
19 aware of that fact when they are reviewing the document
20 because that will affect the degree to which we can be
21 specific.

22 THE CHAIRMAN: All right. We will take
23 that into account, and since there is a delay through
24 the negotiation period before that panel will be
25 presenting its evidence in any event, we can take into

1 account any responses to the interrogatories that are
2 made in the interim.

3 As far as Panel 2, it looks like we will
4 be finishing Panel 1 this week and we will be able to
5 commence Panel 2 and likely finish Panel 2 next week.

6 MR. COSMAN: Just for the parties'
7 benefit, Mr. Chairman, so that no one is taken by
8 surprise, I anticipate a day in-chief but parties
9 should be ready if I complete in less than a day.

10 THE CHAIRMAN: Could we have an
11 indication of how long people might be with Panel 2?

12 MS. SWENARCHUK: I expect to be a full
13 day and, Mr. Chairman, as we discussed yesterday, I
14 thought there was some concern about completing the
15 cross-examination by the end of next week.

16 THE CHAIRMAN: Well, the concern was not
17 to split the cross-examination over the negotiating
18 period. The concern we expressed was not to start
19 cross-examination if it meant splitting it.

20 But if, on the other hand, it meant
21 starting it and completing it prior to rising for the
22 negotiating session, then that would be preferable as
23 well. It would mean that more time wasn't wasted.

24 MS. SWENARCHUK: I may well be more than
25 a day, I would say one to two, and I understand that

1 Mr. Hunter and Mr. Colborne are cross-examining as well
2 on that panel. I have some doubts, frankly, whether it
3 can be finished in one week. It's very a substantial
4 piece of evidence.

5 MR. CASSIDY: Mr. Colborne I spoke with
6 about an hour and a half ago and he said he would be
7 about an hour in cross-examination of Panel 2.

8 THE CHAIRMAN: How about you, Ms.
9 Seaborn?

10 MS. SEABORN: Approximately half a day,
11 Mr. Chairman.

12 THE CHAIRMAN: Half a day. Mr. Freidin?

13 MR. FREIDIN: Approximately half a day.

14 ---Discussion off the record

15 THE CHAIRMAN: All right. We will
16 address the presentation of Panel 2's evidence after
17 we've had the lunch break so that we can work out some
18 of the timing and see what kind of a reasonable
19 expectation there is of finishing it next week.

20 MR. COSMAN: Mr. Chairman, if I may just
21 address the issue that we were discussing just before
22 the break.

23 THE CHAIRMAN: Very well.

24 MR. COSMAN: I have some difficult and
25 recalcitrant clients who have instructed me that they

1 with to do their best to answer the questions that Ms.
2 Swenarchuk wants to put, notwithstanding some sound
3 legal advice that perhaps they shouldn't be getting
4 into this area.

5 THE CHAIRMAN: It won't be the first time
6 that clients don't follow legal advice.

7 MR. COSMAN: However, Mr. Chairman, I do
8 want to say that even though they will do their best to
9 answer the questions, No. 1, they are not the technical
10 people within their companies that may more carefully
11 and accurately deal with all of the specifics of any
12 specific allegation or complaint about a particular
13 discharge, and so that it is only in a generic sense
14 that perhaps they can assist you; and, secondly, I do
15 hope sincerely that this isn't the beginning of a
16 broadening of the scope of this hearing into something
17 other than the issues of planning for and carrying on
18 the activities of access, harvest, protection and
19 renewal of the woodland forest. Otherwise, if that is
20 so, we have to know right now.

21 THE CHAIRMAN: Well, we feel that some of
22 these issues are relevant. Let's play it by ear, Mr.
23 Cosman, and see how far Ms. Swenarchuk is going to take
24 us down this path.

25 MS. SWENARCHUK: In preparation, I would

1 simply refer the Board to page 19 of Mr. Boswell's
2 witness statement, without going through it in detail,
3 which is the paragraph that launched me to this very
4 limited degree I intend to go into this issue.

5 Q. Well, gentlemen, you have had a
6 chance to look at the waste water discharge summary
7 and --

8 MR. FREIDIN: Excuse me, Mr. Chairman.
9 Are we going to make something an exhibit so the other
10 parties can have a look at it.

11 MS. SWENARCHUK: Excuse me. (handed)

12 THE CHAIRMAN: Exhibit 1041.

13 MS. SWENARCHUK: And this is a waste
14 water discharge summary for 1988 discharges excerpted
15 from the report on the 1988 industrial direct
16 discharges in Ontario published by the Ministry of
17 Environment, December 1989.

18 ---EXHIBIT NO. 1041: Excerpts from the Waste Water
19 Discharge Summary for
20 1988 published by the Ministry of
Environment, December 1989.

21 MS. SWENARCHUK: Now, it is not my
22 intention to go through each sheet in detail. As I
23 reviewed with the witnesses before the break, these
24 pages, Mr. Chairman, Members of the Board, summarize
25 discharges from the E.B. Eddy and Abitibi-Price mills

1 in Ontario.

2 And as I indicated, and I believe the
3 panel agreed, the Abitibi and Eddy mills are largely in
4 compliance with the control orders negotiated as they
5 are on an individual basis with the exception of the
6 E.B. Eddy Ottawa plant. And I believe Mr. Boswell
7 agreed with me that there may be some additional
8 problems with that plant and the summary of the
9 performance of that plant is the last page of the
10 excerpt, page A-57 and A-57A and that indicates a 54
11 per cent compliance rate and the Board will see that
12 calculation on the last line of the page.

13 Q. Now, Mr. Macdonald and Mr. Boswell, I
14 just want to refer you and the Board as well to one
15 other element of the waste water discharge summary and
16 that is, on each page it's referenced to lethality of
17 the effluent to fish and that reference is to be found
18 in the top half of the page in the Comments section.

19 And, gentlemen, you've had an opportunity
20 to review the document and you will agree with me, will
21 you not, that the document indicates that in the case
22 of each plant the effluence are lethal in varying
23 degrees to fish?

24 Non-acute lethality, acute lethality, are
25 the two categories, and the effluent of each of the

1 plants contains one of those categories of lethality in
2 fish; is that correct?

3 MR. MACDONALD: A. Yes. If I could
4 expand on this issue perhaps it might help clarify it.

5 The test itself is the suspension of a
6 particular kind of trout in a concentration of 100 per
7 cent effluent and the determination of toxicity is
8 whether 50 per cent survive the period of, I believe it
9 is, four days. This is perhaps an arbitrary measure of
10 toxicity but it's the only accepted one that is in
11 place at the present time.

12 The control order limits on none of our
13 mills have a section of toxicity and there is no
14 requirement to meet the toxicity standard. So that in
15 terms of the Ministry of Environment, in spite of the
16 fish deaths, the effluent is in compliance and the
17 issue of toxicity is a great concern to everyone.

18 What I think we should recognize as well,
19 that this is in 100 per cent concentration of effluent.
20 Immediately upon discharge of the effluent from the
21 discharge pipe, there is approximately a four-to-one
22 dilution factor as soon as it hits the receiving water
23 and, of course, that expands rapidly as it moves out
24 from your discharge point.

25 But I think the important point is that

1 this does not impact on the compliance with the control
2 orders that are in place.

3 Q. I quite agree, Mr. Macdonald, and I
4 appreciate your explanation of the lethality test.

5 Now, would you agree with me that
6 although it has been the standard testing procedure, as
7 you have indicated, up to now, and that although to
8 this point industry has not been required to comply
9 with the given standard of toxicity in the effluence,
10 that concern is growing that in fact some greater
11 measure of toxicity compliance will be required in the
12 future and that in fact, for example, the MESA program
13 may require controls on chemicals only sub-lethally
14 toxic or toxic with chronic exposure or non-lethal in
15 short exposures; in other words, that the Ontario
16 Ministry is moving towards more restrictive standards
17 in pulp mill effluence with regards to toxicity?

18 A. Industry representatives are in the
19 process of working with the Ministry of the Environment
20 to determine exactly where MESA is going to take us.
21 And I know it is an area of concern, is being
22 addressed, but I don't believe that there has been any
23 resolution at this point in time.

24 Q. So you are not aware of whether the
25 proposed standards will be more restrictive on toxicity

1 issues?

2 A. No, I haven't personally seen any
3 proposed standards on toxicity. Since there are no
4 standards at the present time on toxicity, I would
5 assume that anything that comes along is going to
6 become more restrictive.

7 Q. Now, you have indicated that industry
8 officials are involved in that process. Is it fair for
9 us to assume that Abitibi-Price isn't going to leave
10 Ontario if the MESA toxicity standards are even
11 considerably more restrictive?

12 A. Well, that's a rather hypothetical
13 question, depending on exactly what the standards
14 develop. Certainly we are not going to walk away from
15 the huge investment that has been made in our mills in
16 Ontario because of a toxicity standard if we, with the
17 help of MOE and any consultants, we can find a way of
18 achieving the elimination of toxicity.

19 The whole MESA program is based on the
20 application of the best available technology that is
21 economically achievable and we agree with that
22 approach, and so I am confident that the Ministry of
23 the Environment together with industry is going to work
24 out something that can be achieved. I think that no
25 one has in mind describing any value to a procedure

1 that would result in a standard that was just
2 physically impossible to achieve. I don't think the
3 issue of leaving Ontario is at all relevant in
4 connection with this.

5 Q. I am pleased to hear you say that,
6 Mr. Macdonald.

7 Now, another document that you were able
8 to examine over the break -- and, Mr. Chairman, as I
9 informed Mr. Cosman this morning, this document was
10 only delivered to me at my home at ten o'clock last
11 night, I really had no opportunity to provide it to
12 anyone. I will distribute it now.

13 MR. COSMAN: I was at my office last
14 night at ten, Mr. Chairman.

15 MS. SWENARCHUK: I just didn't take my
16 fax home, sorry.

17 MR. CASSIDY: I have a fax machine at
18 home actually.

19 THE CHAIRMAN: Exhibit 1042.

20 MS. SWENARCHUK: Mr. Chairman, this is a
21 summary of spills and notifications reported to the
22 Spills Action Centre of the Ministry of the Environment
23 occurring between February of 1988 and February of
24 1990, occurrences by the forest industry recorded by
25 municipality.

1 ---EXHIBIT NO. 1042: Summary of spills and
2 notifications reported to the
3 Spills Action Centre of the
4 Ministry of the Environment
5 occurring between February
6 1988 and February 1990.

7
8
9
10 MS. SWENARCHUK: Q. And, gentlemen,
11 neither you nor I have had a great deal of time to
12 review this document, and I don't intend to subject you
13 to a great deal of interrogation, perhaps you could
14 just confirm for me the totals that we indicate.

15 First of all, going back to the
16 compliance order -- the control order. I understand
17 from the introduction to this document that some of the
18 notifications recorded it in could be notification of
19 exceedances of the control order; is that not correct,
20 Mr. Macdonald?

21 MR. MACDONALD: A. Yes, I believe that
22 the procedure -- first of all, I believe that all of
23 the items listed in here are based on a report by the
24 mill involved as opposed to an audit procedure by MOE
25 or some other authority, and the incidents include what
 are called deviations from standard operating
 operations.

26 So that if you go through them item by
27 item you will find in some cases where the mill is
28 reporting a deviation from standard procedure which may

1 or may not result in some actual spill either to
2 receiving water into the air or onto the land.

3 Q. And I will leave it to the Board to
4 have an opportunity to go through the details on their
5 own.

6 Would you confirm for me, Mr. Macdonald,
7 that I note 20 instances describable as spills by
8 Abitibi-Price and two that would be describable as
9 notifications?

10 A. I have 22 total Abitibi-Price
11 references, so that's probably correct.

12 Q. Okay. And, Mr. Boswell, with respect
13 to E.B. Eddy, I have 57 spills and 85 instances of
14 notification?

15 MR. BOSWELL: A. I believe that's
16 correct, yes.

17 Q. Thank you. Now, again, gentlemen,
18 Mr. Macdonald specifically in this case, your
19 environmental policy spoke about health and safety,
20 occupational health and safety and I believe you made
21 some reference to it yesterday as well, and I would
22 like to distribute now the other document that you saw
23 over the break.

24 THE CHAIRMAN: It will be Exhibit 1043.

25 MS. SWENARCHUK: Mr. Chairman, this is an

1 excerpt from an annual report, the Ninth Annual Report
2 of the Advisory Council on Occupational Health and
3 Occupational Safety; that is, the information pages are
4 from that source and that is a body -- a statutory body
5 which reports to the Ministry of Labour.

6 ---EXHIBIT NO. 1043: Excerpt from the Ninth Annual
7 Report of the Advisory Council on
8 Occupational Health and
9 Occupational Safety.

10 MS. SWENARCHUK: Q. And Mr. Macdonald, I
11 just wanted to ask you briefly, would you agree that
12 unfortunately the forestry sector has been known for
13 very high rates of industrial accidents and industrial
14 fatalities?

15 MR. MACDONALD: A. That's a relative
16 term --

17 Q. Excuse me. I am sorry, relative to
18 other industries.

19 A. That is a relatively term, but
20 certainly the page headed Number of Injuries Per
21 Million Man Hours indicates that the frequency rate is
22 higher for the category of forestry and logging than
23 for other categories.

24 Q. Yes. And if we could just turn to
25 the fourth page of the document, please, in which the
chart is entitled the Number of Injuries Per Million

1 Man Hours for Injuries Occurring in Ontario 1975 to
2 '85, Classified by Major Industry, and the second line
3 of the document - if it is helpful to the Board, the
4 bottom of the page has page 166 - and if we read across
5 the second line, Mr. Macdonald, we see the relative
6 numbers of injuries in the forestry sector for that
7 time period annually; is that not correct?

8 MR. MACDONALD: A. Yes, that's correct.

9 Q. And would you agree with me that
10 although there is relatively wide discrepancies amongst
11 the years, in fact the rate over that time period could
12 not have been said to have declined?

13 A. I would agree. I would like to point
14 out additionally, if I could, Mr. Chairman, that the
15 Abitibi-Price rate calculated on the same basis is
16 significantly smaller and, in fact, is at a level
17 around 14 or 15 as opposed to 74 to 80.

18 Q. Could you indicate for what year that
19 is, Mr. Macdonald?

20 A. Well, I can only give you the company
21 numbers for the years '85 through '89 which
22 unfortunately pick up where this occupational health
23 and safety one leave off.

24 Q. Yes.

25 A. But for our woodlands operations they

1 are 13.6, 17.4, 15.5, 26.3 and 15.4.

2 Q. That's for woodlands alone?

3 A. Yes. I think the category of
4 forestry and logging that's referenced here includes
5 logging operations, sawmill operations and veneer
6 plants, but does not include pulp mills and paper
7 mills.

8 Q. Now, given that level, would you
9 agree with me, Mr. Macdonald, that the industry has
10 some distance to go in achieving the goals stated in
11 your environmental policy for a safe and healthy work
12 place?

13 A. Well, the reason I wanted to bring
14 out our own reference is because our policy obviously
15 applies only to Abitibi-Price, and we do place a great
16 deal of attention on the issue of occupational health
17 and safety and I think there is always room to improve.
18 They are industries that achieve a zero frequency and
19 that's our goal.

20 THE CHAIRMAN: But given the type of
21 operations that are ongoing in the forestry sector, is
22 it reasonable to conclude that you will likely get to
23 zero; in other words, it can be a dangerous occupation
24 in some instances, you are dealing with heavy
25 equipment, you are in the forest, you are over all

1 types of terrain?

2 MR. MACDONALD: Yes, but sometimes, Mr.
3 Chairman, we rely on those factors more heavily than we
4 should. I am not prepared to say that we will never
5 get to zero, that's our goal.

6 MS. SWENARCHUK: Q. Wouldn't you agree,
7 Mr. Macdonald, that mining and construction also
8 contain types of work that are clearly dangerous, and
9 yet according to these figures they have a fatality
10 rate and accident rate considerably lower than the
11 forestry sector?

12 MR. MACDONALD: A. I think I agree with
13 you that they contain dangerous equipment. But while
14 the injury rate is lower, I'm not sure that the
15 fatality rate is.

16 Q. If you look at the second page of the
17 exhibit, Mr. Macdonald.

18 A. Yes, okay.

19 Q. Now, Mr. Macdonald, if we could turn
20 to page 35 of your witness statement, please, and the
21 second paragraph. I will just give you a moment to
22 read it over, if you wish.

23 And I want to ask you some details about
24 your statement in the third sentence that these pieces
25 of legislation were brought in with minimal

1 consultation within a short time period. Now, first of
2 all, with regard to pension indexation, could you
3 indicate to me what legislation you are referring to?

4 A. I can't give you the bill number, but
5 the reference was to a required indexation of pensions.

6 Q. And my difficulty with that, Mr.
7 Macdonald, is that having tried to look at the area and
8 consulted other lawyers who work in the area, we are
9 not aware of any legislation in Ontario that requires
10 index pensions; to the contrary, it's my information
11 that although the Ontario government indicated some
12 years ago an intention to move in that direction that,
13 in fact, no such amendments are proposed or have been
14 passed.

15 A. I don't have the information here to
16 agree or disagree positively. I know that there was
17 considerable movement toward it and partly in response
18 to that we changed our pension program to one that is
19 indexed which has incurred a considerable additional
20 cost.

21 Q. And did you do that through your
22 collective bargaining process?

23 A. Both through the collective
24 bargaining process and unilaterally for those employees
25 not covered by the collective bargaining process.

1 Q. And can you give me an idea of over
2 what time period that change occurred?

3 A. No. No, I can't.

4 Q. Now, with regard to your statement in
5 the first line, "the liberalization of the workers
6 compensation system", were you referring to the bill
7 that is in the legislature at the moment?

8 A. No, I was referring to, I think it's
9 Bill 162 in that case which changed the compensation
10 for injuries. I believe the Labour Minister at the
11 time categorized it as getting away from the meat
12 market approach.

13 MR. MARTEL: The meat chart.

14 MR. MACDONALD: The meat chart. And that
15 was a very positive step that I don't think anyone
16 could disagree with.

17 My basic concern, as I stated yesterday,
18 is that we have had a rapidly escalating rate of
19 assessments for workmen's compensation since that time.

20 MR. MARTEL: Could I ask a question
21 though, Mr. Macdonald. Isn't it time that you looked
22 at compensation and occupational health in the same
23 breath almost, because without one, the reduction of
24 accidents, you cannot reduce the cost of compensation
25 and, in fact, that is not the way we are moving, it

1 would appear, that in fact we are moving in the
2 opposite direction, that to not combine the two and
3 involve the workers and management in a comprehensive
4 plan, that one will never see that unfunded \$7-billion
5 liability go down?

6 MR. MACDONALD: Well, several points,
7 sir. First, I agree with you completely in terms of
8 the co-operation of labour and management in this issue
9 and it's an approach we have -- we in our unions have
10 looked at diligently with safety conferences devoted to
11 both occupational health and safety issues with
12 significant progress.

13 I think that in terms of the assessment,
14 however, we see a situation where the assessment is
15 going up when the accident rate is coming down partly
16 because of the lack of funding which has to be caught
17 up, and partly I believe because of a heavy
18 administrative cost at WCB.

19 MR. MARTEL: You could have a
20 comprehensive scheme as New Zealand does.

21 MR. MACDONALD: I am not familiar with
22 the New Zealand scheme.

23 MR. MARTEL: That might reduce the cost.

24 MS. SWENARCHUK: Q. Well, to look at the
25 other legislation you mentioned there, for example, Mr.

1 MacDonald, the pay equity legislation, and again I am
2 concerned with your comment that it was brought in with
3 minimal consultation within a short time period.

4 Isn't it correct that with regard to pay
5 equity the discussion in Ontario commenced in about
6 1974, there was a green paper in 1976, then Mr. Scott's
7 green paper in November of 1975, separate hearings on
8 the public sector and private sector bill, numerous
9 opportunities for consultation with industry and the
10 first result of all of that process is only in this
11 year, 17 years after discussion.

12 Again, surely that is not a short time
13 period for legislative change?

14 MR. MACDONALD: A. Well, I can't refer
15 to the dates, but 17 years is not a short time period.

16 However, I think perhaps there is a
17 difference in the definition of the word consultation.
18 Notification and a statement of what is going to happen
19 does not mean consultation in my terms, and I believe
20 our industry had little opportunity to really consult
21 on that issue.

22 Q. Well, Mr. Macdonald, if I can refer
23 you, for example, to the public hearings that were held
24 exhaustively in which numerous industries participated
25 in 1985 after the green paper and not yet legislation,

1 surely that was an opportunity for your industry as
2 well?

3 A. I am sure our industry took every
4 opportunity to provide our comments. But, again, that
5 is really not a discussion and a consultation, and the
6 basic issue that I was trying to address in this
7 paragraph - perhaps not expressing myself as clearly as
8 I would like to have - is that anyone of these items
9 can clearly be regarded as a progressive step and the
10 fact that it was enacted, the population of Ontario
11 society generally was in favour of.

12 The individual items, however, I believe
13 took place without a very accurate assessment of the
14 consequent costs that industry would have to bear and
15 bear in what we have seen yesterday with a very
16 competitive market place. So that the cumulative
17 effect of individual pieces of legislation can be
18 substantial, can have a significant impact.

19 Q. Well, Mr. Macdonald, surely your last
20 example though, the spills bill, or the last item you
21 discussed, is the most difficult one for your argument.

22 This one was actually passed by the
23 Ontario Legislature; was it not, in 1979 and not
24 proclaimed for six years. And isn't it correct that
25 during that time period there was an

1 industry/government task force to discuss the
2 implications of the bill and that all industries had
3 ample opportunity to participate and, in fact, a piece
4 of legislation passed by the house was not implemented
5 for six years?

6 A. I am not familiar with it in detail,
7 but I believe that one of the factors in that delay of
8 six years was a recognition after the legislation was
9 passed that there was a potential for some very heavy
10 consequences falling on individuals or companies who
11 had not really caused the problem and a total inability
12 to obtain insurance against them.

13 The insurance industry, I think contrary
14 to information they had previously given the Ministry
15 of Environment, was not prepared to issue coverage and
16 policies, and I don't know where that stands at the
17 present time, whether they have changed their position
18 or not.

19 Q. Well, I suggest to you they have, but
20 you have not informed yourself on that issue; is that
21 correct?

22 A. That is correct.

23 Q. Was your company one of those that
24 consulted with the government during that six years,
25 Mr. Macdonald?

1 A. Yes, we were. We were very concerned
2 about the extreme liabilities that could be incurred
3 without any possibility of protecting ourselves.

4 Q. Frankly, from my perspective, and I
5 put it to you, a six-year delay industry consultation
6 after a bill has been passed by the Legislature is
7 probably the strongest argument anyone could make that
8 industry consultation is very effective with the
9 government?

10 A. I am not privy to the decision-making
11 process of the government, but I really believe that it
12 was less a factor of industry consultation slowing down
13 the actual implementation, than government recognized
14 some problems with the bill.

15 THE CHAIRMAN: Ms. Swenarchuk, is it not
16 speculative as to the reasons why a particular
17 government of the day does not proclaim a particular
18 bill that has been passed by the Legislature?

19 I think you can go back and find all
20 kinds of examples where bills are proclaimed almost
21 immediately, other bills await proclamation for a long
22 time. For instance, for example the private sector
23 provisions of the Environmental Assessment Act itself--

24 MS. SWENARCHUK: Yes.

25 THE CHAIRMAN: --have been in since 1975.

1 MS. SWENARCHUK: Yes.

2 THE CHAIRMAN: And have yet to be
3 proclaimed for a variety of reasons and through a
4 number of different governments.

5 MS. SWENARCHUK: Like the spills bill, as
6 we call it.

7 THE CHAIRMAN: That's right.

8 MS. SWENARCHUK: Yes, Mr. Chairman. I
9 could enjoy in another context speculating, as I am
10 sure you could, on all these purposes. I merely was
11 directing our attention to the position taken in the
12 witness statement that minimal consultation and a rapid
13 time period ensued on these pieces of legislation.

14 I am prepared to move on.

15 Q. And I would like to talk more
16 generally about the attitude of the Industry and the
17 intentions of the Industry with regard to environmental
18 regulation and changes in environmental regulation
19 codes.

20 And if we could start with you first, Mr.
21 Boswell. On page 5 of your witness statement and the
22 chart, Figure 2, I notice that with regard to both
23 paper manufacturing and pulp manufacturing
24 environmental constraints are one of the subject
25 matters that enters into the company's structure, but I

1 don't see any reference to that with regard to
2 forestry, the box at the bottom of the page, and I just
3 wondered why that difference is there?

4 MR. BOSWELL: A. I am not sure, Mr.
5 Chairman, I would categorize it as a difference. I
6 think if it is included in the manufacturing process it
7 is because we are working under clear control orders,
8 with quantitative targets set to; whereas in the
9 practice of forest management, there is scope for wide
10 interpretation of forest management prescription and
11 the environmental concerns have always been - not
12 always - more recently been built into the timber
13 management planning process and are taken as a given.

14 So the fact that it is left off the chart
15 is simply that it's a matter of our forest management
16 practices.

17 Q. So it's accounted for through the
18 management planning process then; is that correct, Mr.
19 Boswell?

20 A. It's accounted for through the
21 forest --

22 Q. Timber management?

23 A. Timber management planning processes
24 and other processes that we apply, if we meet abnormal
25 or peculiar situations as we progress through our

1 forest management activities.

2 Q. Mr. Macdonald, if you would look at
3 page 34 of your witness statement please, the second
4 paragraph, and you have said:

5 "The take away message is clear.
6 companies will not be bound by the
7 tradition of local allegiance: economic
8 survival will be the driving force in
9 aligning forest product companies with
10 lower cost opportunities."

11 Now, that appears to me to be
12 contradictory to the position that you have taken with
13 the Board that your company is in the north for the
14 long haul. And I wonder if you could explain that
15 discrepancy?

16 MR. MACDONALD: A. I don't believe that
17 there is a discrepancy, but I will try to clarify the
18 situation.

19 We are in the north for the long haul.
20 The fact that we have been there for 70 years should
21 substantiate that, and it may be repetitive, but our
22 investment program, our interest in regeneration to
23 build a forest we will need in the long haul also
24 substantiates that.

25 Nevertheless, I think we have also

1 recognized that we are involved in very competitive
2 markets and ultimately the total of the factors that
3 are involved in arriving at the cost of producing and
4 delivering our product has to be taken into account.

5 That is really a part of my -- a central
6 part of my basic message, that if the Industry -- if
7 society wishes Industry to continue in Ontario and
8 providing the support for communities and employment
9 and a part of the Ontario economic activity, then it's
10 important that there be an ability to remain
11 competitive.

12 And we are more than prepared to do our
13 share in terms of investment and modernization, but
14 ultimately there have to be other factors that come
15 into play as well in terms of many of the aspects of
16 forest management that we have been talking about.

17 Q. Okay. Now, as I summarize the
18 witness statements of both of you, Mr. Boswell and Mr.
19 Macdonald, and your evidence here yesterday and today,
20 I am left with the impression - and I am pleased at
21 this - that the Ontario Forest Industry is competitive.

22 Mr. Boswell I think you described
23 yourself as having a market niche. And, Mr. Macdonald,
24 pages 4, 5 and 6 of your witness statement you describe
25 what I think is an overall positive atmosphere for

1 business operations.

2 Mr. Boswell, you went further and
3 described for us on page 18 how, with regard to your
4 Espanola plant, environmental protection can be
5 profitable as well.

6 So do you agree with me then, gentlemen,
7 that we are looking at a business outlook that is
8 positive overall?

9 MR. MACDONALD: A. If I may, I would
10 like to add the section 4, 5, 6 referring to the
11 general outlook for market demand and growth and demand
12 for our products is positive on a long-term basis;
13 however, other information is contained in the witness
14 statement which indicates that we are at a competitive
15 cost disadvantage at the present time of some \$60
16 versus our competitors in the U.S. south and that is
17 very significant.

18 We are also at a circumstance where there
19 is a large oversupply of newsprint in the market which
20 is going to result in aggressive competition for the
21 customers that are there.

22 Q. Now, is that not part of what has
23 been described to us as the cyclicalities of the
24 industry?

25 A. That supply/demand situation is

1 definitely part of the cyclicalities. The severe cost
2 competitive position is not and is a result, as much as
3 anything at the present time, of exchange rates.

4 Q. Mr. Boswell?

5 MR. BOSWELL: A. Yes. I would just like
6 to correct one impression that you may have made on the
7 Board; and, that is, you refer to page 18 as a
8 description of the profitable results of environmental
9 expenditure. Indeed, Mr. Chairman, it is far from
10 that. What I...

11 Q. Excuse me --

12 A. What I have described here is
13 investments and the savings, small as they were, that
14 were derived from those environmental investments.
15 That is hardly a description of profitability.

16 But I thought it was important that the
17 Board should know that all is not bleak and we are up
18 front and centre in terms of the fact that those
19 environmental expenditures that we designated in this
20 graph and other graphs in my witness statement were, in
21 fact in these cases it led us to some savings, but they
22 alone would not lead us to profitability, Mr. Chairman,
23 as I hope you can appreciate.

24 I would like to talk then about the
25 future of the Eddy company in the north and in terms of

1 our competitive position, and I think cyclicalilty is
2 very important and it may not be the responsibility of
3 this political jurisdiction to jerry-maund the Canadian
4 dollar, but it sure has an impact on us and you should
5 know, in conjunction with Mr. Macdonald's statement
6 yesterday, that every one-cent change in the Canadian
7 dollar has an impact on the Eddy company of \$3-million
8 on the bottom line. And given that we are essentially
9 an Ontario company, that surely affects our future.

10 But that notwithstanding, yes, we have
11 picked a niche, yes we have picked a niche in the
12 marketplace where we compete with U.S. companies almost
13 solely and we are successful thanks to the combined
14 contribution of an awful lot of skilled people from the
15 forest right through to the marketplace.

16 Q. Mr. Boswell, I should have referred
17 you earlier to page 22 with regard to benefits from
18 good environmental performance, as you have expressed
19 it there. I apologize for referring you to 16, I had
20 22 in mind. Okay.

21 Mr. Macdonald, you spoke in your witness
22 statement at page 35 and 36 and also in your evidence
23 about -- we see in the top paragraph of page 35 the
24 need for predictability and for a climate of stability.

25 And in page 36 in the last paragraph with

1 regard to environmental issues, if I could just read --
2 if I could summarize the import of the paragraph, you
3 emphasize again the need for stability of requirements
4 and the approval process, and in the last sentence you
5 indicate:

6 "The point here is not the level of the
7 requirements, but rather being certain of
8 what one has to deal with."

9 So as I understand your evidence then, I
10 take it in addition to of course the level of
11 environmental protection required of you, you have a
12 great deal of concern for some measure of certainty in
13 requirements; predictability?

14 MR. MACDONALD: A. Yes, that's correct.
15 And the desire for some -- for the ability to have some
16 degree of confidence in the direction in the future is
17 again based on the fact that typically we make a very
18 large investment and expect to pay out over an extended
19 period of time, and if the ground rules are going to be
20 changed radically within that time frame, it can have a
21 great effect on your ability to achieve that return.

22 Obviously we don't expect that all of the
23 conditions in place when we make the investment would
24 just stabilize and nothing would change, but the
25 reference is more to a feeling of confidence that comes

1 with: Change is going to be rationale and at a pace
2 that is in balance with economic realities.

3 Q. But just to pick up on one of your
4 comments, you accept then I take it that as the
5 scienced involved in identifying and examining
6 environmental problems progress, that it may well be
7 that over time standards will continue to change?

8 A. I expect that standards in that area
9 will continue to change. And, again, if I could refer
10 to the MESA concept of best available technology that
11 is economically achievable, that implies that the
12 standards will change, but also the technology in
13 dealing with them will changing so that there is a
14 capability of achieving the standards as well.

15 Q. And if I could just refer again to
16 the last paragraph of page 36. We have discussed
17 investing in Alabama which you indicate:

18 "...has strict effluent requirements
19 which have been in place for 8 to 10
20 years, are stricter than those of Ontario
21 or Quebec, and its reporting requirements
22 that are more onerous."

23 But you have more flexibility there, it
24 appears, in how you comply with the limits. I take it
25 from that then, Mr. Macdonald, that, to emphasize once

1 again, the actual level of the limit is not in itself
2 necessarily a determining factor in where your company
3 will decide to invest?

4 A. I think, first of all, I would like
5 to emphasize that environmental limits and regulations
6 are only one of the many elements that I talked about
7 yesterday in terms of making an investment decision.
8 So that it would be extremely unusual if they were the
9 factor that caused us to make or not to make
10 investment, but more specifically on your point, yes,
11 the choice made by the authorities in that area, giving
12 the company its options in how they achieve the desired
13 end point, rather than trying to mandate both the end
14 point and the method of achieving it, is important to
15 us because that gives us flexibility as processes
16 change in finding different ways of still achieving the
17 standards or the goal.

18 Q. And can we assume, Mr. Macdonald,
19 that just as your company is in the process of
20 preparing to comply with changed standards through MESA
21 in Ontario, that rationale standards even if changed
22 coming out of this process are not going to lead to
23 Abitibi's leaving Ontario?

24 A. I guess the key word is rationale.
25 MS. SWENARCHUK: I think we can rely on

1 the Board for that.

2 Thank you, those are my questions.

3 THE CHAIRMAN: Thank you, Ms. Swenarchuk.

4 Mr. Freidin, how long are you going to
5 be?

6 MR. FREIDIN: 45 minutes to an hour.

7 THE CHAIRMAN: Okay. We have a need
8 today to rise at 12:30.

9 So that if you don't finish at 12:30, we
10 can finish off when we come back.

11 MR. FREIDIN: Perhaps, I could move up.

12 THE CHAIRMAN: Very well.

13 CROSS-EXAMINATION BY MR. FREIDIN:

14 Q. Mr. Lafreniere, yesterday there was
15 some discussion about the selling of green lumber going
16 primarily to the Toronto market and I wasn't clear from
17 your evidence, but perhaps you could confirm for me.

18 It's my understanding that the Ontario
19 building code requires lumber to be dried at the time
20 of installation, but it does not in any way prohibit
21 the selling of green lumber; is that correct?

22 MR. LAFRENIERE: A. Yes, that is
23 correct, Mr. Chairman.

24 Q. And that lumber can and is in fact
25 dried through methods other than kiln drying in order

1 for contractors or the suppliers of lumber to ensure
2 that the wood which they are supplying in fact is dried
3 sufficiently so that it is dry at the time of
4 installation?

5 A. There is two types of dried lumber.
6 You can have partially air-dried which is listed in a
7 price list, and also when it's for construction grade
8 and stand grade it's No. 2 and better KD. That would
9 be specified clearly on the piece of lumber you would
10 buy.

11 Q. And yesterday you also indicated that
12 your employees are involved in the spraying of
13 pesticides. And in terms of the aerial application, am
14 I correct that you may be involved in the application
15 of herbicides but the aerial application of
16 insecticides is done solely by the Ministry of Natural
17 Resources?

18 A. Yes, according to my information that
19 is correct, Mr. Chairman, too.

20 Q. I would also like to ask you, if you
21 might refer to Exhibit 1035 which was the report which
22 was prepared for you by one of your forest
23 technicians--

24 A. Yes.

25 Q. --regarding logging operations and

1 protective guidelines. And I understand that you are
2 not aware of the technical details of this report, but
3 I am hopeful that you might be able to just provide me
4 with some just general information.

5 At page No. 2 it indicates that, if we
6 look down to the study area heading 2.3, first
7 paragraph, the last sentence indicates that the case
8 study area was used to allocate two theoretical harvest
9 cuts?

10 A. That's correct.

11 Q. And when we refer to full compliance
12 in the Item No. 1, it says the harvest cut -- or a
13 harvest cut designed in full compliance with the
14 current guidelines, is it fair for me to assume if we
15 turn to page No. 3 that full compliance, as defined or
16 used by your forest technician would be providing the
17 type of prescriptions outlined in Table 1 under the
18 heading guidelines map?

19 A. That's correct, Mr. Chairman.

20 Q. So that in terms of looking at Table
21 No. 1 where in fact we have maximum sizes of cuts of
22 100 hectares and 130 hectares referred to, that would
23 be the assumption as to the size of the cuts regardless
24 of the capacity of the land base to carry moose, in the
25 case of moose, it would just be a standard approach of

1 100 and that 130 quite irrespective of whether the land
2 base could support moose?

3 A. Yes, I would assume so, Mr. Chairman.

4 Q. Okay. Now, going back to page No. 2
5 in the last paragraph under heading 2.3, it states
6 that:

7 "This report does not analyse the
8 allocation approved in the timber
9 management plan."

10 And I was somewhat confused and maybe you
11 can help me.

12 I took that statement and then I went to
13 page No. 3, and in the second line where it says the
14 other map, and you are referring there to the control
15 map, it says:

16 "Was prepared without reference to either
17 set of guidelines; however, reserves for
18 wildlife concerns are marked on the map
19 as approved in the timber management
20 plan."

21 And I was somewhat confused as to what
22 part of Figure 1 or Figure 2 were in fact allocations
23 or reserves which were in fact imposed and approved in
24 the timber management plan for the area in question?

25 A. I presume, Mr. Chairman, that map No.

1 with the areas of concern for moose and wildlife are
2 used on back history or figures that -- you know, like
3 I'm not the author of the report, but I presume that
4 they use guidelines according to past experience.

5 Q. On the control map, Figure No. 1?

6 A. That's right, yes.

7 Q. And Figure No. 2?

8 A. These would be the guidelines that
9 would have been returned from the Ministry, I presume.

10 Q. Am I correct that Figure No. 2 -- can
11 you tell me, was Figure No. 2 prepared by your staff
12 and submitted to the Ministry for comment or was it
13 prepared by the Ministry as what it believed or what in
14 fact it was going to require?

15 A. That, Mr. Chairman, I have no
16 knowledge. It was either party that had prepared it.

17 Q. Okay, that's fine. Thank you. And I
18 believe you indicated in your evidence that you relied
19 on this report for the purposes of making a statement
20 in your witness statement?

21 A. It was written for a question from
22 Mr. Chairman that I responded with that study, that I
23 felt it was the best way of responding to the study
24 than just giving a cost of 50 per cent increase in road
25 costs with no background figures so the Board can look

1 at. That was my reason.

2 Q. Now, Mr. Lafreniere, I have had an
3 opportunity over the evening to read this document and
4 it does cover a lot of different areas and, in fact,
5 contains the rationale for the decisions or the
6 conclusions which were reached here.

7 And I take it you relied - and I'm not
8 being critical - that you relied on your forest
9 technician to in fact prepare this report for you?

10 A. That's correct.

11 Q. And I assume that you believe that
12 this is a quality document, that's it is a good
13 analysis of the topic that it addresses?

14 A. Yes, Mr. Chairman. I think we do,
15 yes.

16 Q. And do you believe in your experience
17 that forest technicians are trained and are able to
18 provide this kind of advice to companies, that you
19 don't always have to rely on a forester to do this kind
20 of work?

21 A. We hire a variety or a group of
22 people within our organization that are professionals
23 and we depend on their statements and their studies and
24 the background on any material that they bring across
25 for us.

1 Q. So you believe that forest
2 technicians can in fact play an important role in terms
3 of providing information and input into decision-making
4 regarding silviculture and logging operations
5 generally?

6 A. Oh definitely, yes.

7 Q. Thank you. How many forest
8 technicians did you say are employed by Superior
9 Forest?

10 A. Superior Forest - I will try and get
11 the numbers exactly - there's three technicians and two
12 foresters. I have the numbers here. Yes, Superior
13 Forest has two professional foresters and two techs.

14 Q. Okay, thank you. The document that
15 we are talking about, Exhibit 1035, indicates that in
16 terms of the cost of the various reserves that have
17 been established through these guidelines or could be
18 established through these guidelines, that you have
19 been able to quantify the cost of that in dollars and
20 cents; that's one of the purposes of this report?

21 A. That was one of the purposes, Mr.
22 Chairman, to try to find out not just the loss of the
23 area, but also to qualify the cost involved in losing a
24 particular percentage of an area.

25 Q. Right. Now, we've heard evidence

1 throughout the hearing that in some cases it is not
2 always as easy to in fact put a dollar figure on a
3 non-timber value, whether it is wildlife or aesthetics
4 or whatever.

5 Would you agree with me that where you
6 have a situation where you can't actually put a dollar
7 figure to the other value, but you can do it for the
8 cost of the reserve, that doesn't mean that in every
9 case you should come down on the timber side and allow
10 the company to do what it wants just because you could
11 actually figure out the dollar cost but you might not
12 be able to do it quite as well for the other value,
13 that you have to decide that on a case-by-case basis?

14 A. I think you have to decide it on a
15 case-by-case basis. I would have myself a hard time
16 deciding which side to go, but I think the two portions
17 are very important to analyse. You just can't make a
18 decision on the actual area that you know that's going
19 to cost you so much and leaving completely aside the
20 unknown.

21 Q. Now, Mr. Boswell, you gave some
22 evidence yesterday dealing with the topic of poplar
23 utilization and, if I might, you made the comment that
24 in relation to poplar, and in particular eucalyptus,
25 that eucalyptus in fact is a competitor or competes

1 well with hardwool pulp in relation to the tissue
2 market because of the bulk and the softness that
3 eucalyptus in fact provides.

4 Did I understand your evidence correctly?

5 MR. BOSWELL: A. Almost, Mr. Chairman.
6 I think I indicated that tissue manufacturers prefer
7 eucalyptus because of those two qualities.

8 Q. And are you able, Mr. Boswell, to
9 quantify the tissue market, and what I mean by that is
10 the Ontario pulp and paper industry capacity for tissue
11 in comparison to the other sectors of the industry such
12 as newsprint, market, pulp, et cetera?

13 A. No, I'm not, Mr. Chairman. I can't
14 give you those figures.

15 Q. So if I suggested to you that the
16 capacity in Ontario at this time for tissue is 2.8 per
17 cent of the total capacity for all grades of paper
18 products, you would not be able to disagree with that
19 figure?

20 MR. COSMAN: Or agree.

21 MR. FREIDIN: Or agree with it, that's
22 fine.

23 MR. BOSWELL: That's right, Mr. Chairman.
24 That's easy.

25 MR. FREIDIN: Q. Are you able to advise

1 me whether a large proportion of the -- could you
2 advise me whether in fact a large proportion of the
3 supply used in tissue production in Ontario is made up
4 of recycled or waste paper?

5 MR. BOSWELL: A. No, I can't, Mr.
6 Chairman.

7 Q. Okay. So, again, you wouldn't be
8 able to agree or disagree with the statement that at
9 this time approximately 80 per cent of the tissue
10 production in Ontario is made using recycled or waste
11 paper?

12 A. Absolutely not.

13 Q. And in terms of paper board
14 production, do I take it that the same -- you are
15 unable to agree or disagree that 77 per cent of the
16 capacity in Ontario for paper production is in fact
17 based on waste paper?

18 A. I think I can agree with that, Mr.
19 Chairman, it seems to me that's a figure that I am
20 familiar with.

21 Q. Thank you, Mr. Boswell. So that if
22 we go back to the tissue issue and I am only concerned
23 about that at the moment, Mr. Boswell -- that's fine, I
24 don't think I have to beat a dead horse to death.

25 THE CHAIRMAN: Are you going to abandon

1 the tissue issue?

2 MR. FREIDIN: I am going to abandon the
3 tissue issue.

4 MR. BOSWELL: That's too bad, I enjoy it.

5 MR. FREIDIN: Q. Mr. Macdonald and I
6 think Mr. Boswell, you both made a comment - now this
7 is during cross-examination by Mr. Swenarchuk - about
8 your public communication efforts and I think, Mr.
9 Boswell, you made the comment that one way you deal
10 with that is to sit down with the concerned parties and
11 talk it out, try to work out the problem, if I can
12 paraphrase what you said.

13 And, Mr. Macdonald, in relation to the
14 same topic, you said that at least one method that you
15 use to in fact communicate to the public is through
16 open houses which involve other parties.

17 And can I take it that both of you would
18 agree that the provision for open houses and
19 information centres that is presently provided through
20 the timber management planning process is the type of
21 mechanism that you were both referring to when you gave
22 that evidence about -- particularly you Mr. Macdonald,
23 let's take you first, you were referring to open houses
24 with other parties?

25 MR. MACDONALD: A. Yes, I was referring

1 to that part of the planning process.

2 Q. Right. And, Mr. Boswell, would your
3 comments also include reference to the provision for
4 open houses or public information centres which is part
5 of the present timber management planning process?

6 MR. BOSWELL: A. Yes, Mr. Chairman, as
7 part of many other -- or one of many other dialogues
8 which may be created between interested parties in the
9 timber management process.

10 Q. Thank you. Now, gentlemen, none of
11 you are foresters --

12 THE CHAIRMAN: I think Mr. Boswell is.

13 MR. FREIDIN: Oh, Mr. Boswell, I'm sorry.
14 Sorry, Mr. Boswell. I have been known to blunder like
15 that before.

16 Q. So maybe you can help me with this.
17 There was some discussion during the cross-examination
18 by Forests from Tomorrow about supply dropping off as
19 there is a movement towards the normal forest. And it
20 is my understanding, and I would ask whether any of you
21 can agree or not, that a drop off in supply as we move
22 towards the normalization of the forest over one or
23 more rotations is due to the fact that at the present
24 time we are confronted with an overmature forest?

25 So that at the present time when you

1 calculate the amount of supply that is available during
2 any five-year term, because it is based on that
3 overmature forest, we have a large supply, but as we
4 even out the age classes that supply will obviously
5 have to reduce so that in the long term it will be more
6 even although it won't -- well, be more even.

7 Can you agree, Mr. Boswell, that that is
8 a fair statement?

9 MR. BOSWELL: A. As a forester, Mr.
10 Chairman, technically no reference was made to
11 overmature. I think the equation is impacted by the
12 amount of mature forest as well. In essence, as
13 President of the company, I would agree that the
14 principles enunciated by the counsel from MNR are not
15 far off.

16 Q. But would you agree with me that the
17 situation that you described whereby you are expecting
18 that during this normalization period there will be a
19 decline in supply, it's not the result of poor
20 management by Industry or the Ministry, but rather it
21 is the result of the existing age class structure from
22 which we are starting?

23 A. Mr. Chairman, I think that in essence
24 that's correct. To point fingers retroactively or
25 mediocre or medium or fair management is impossible to

1 do in the forest management business, and I wouldn't
2 think that the uneven age distribution that exists in
3 Ontario today exists because of poor management
4 practices; no, I don't think that that's a proper
5 statement and I would agree with counsel.

6 Q. And the decline though which you will
7 encounter in the future, as we move into the next
8 rotation, that decline is not going to be the result of
9 poor management by your companies or the Ministry,
10 rather, you believe that that is something which will
11 occur because we are starting today with an age class
12 structure which in fact is uneven?

13 A. Mr. Chairman, counsel's painting this
14 as sort of a macro-problem, and the fact is that the
15 problems surrounding this issue can be regionally
16 specific. If you've had a major forest fire some time
17 in the 30s or 40s that wiped out township after
18 township of what was then mature timber, that in itself
19 can destroy the balance.

20 But I think you have to talk about it
21 from a regional fiber basket basis, if you will, as
22 opposed to painting the whole province with this
23 particular problem.

24 Q. Thank you, Mr. Boswell. I believe it
25 was you, Mr. Boswell, who in response to a question

1 from Ms. Swenarchuk indicated -- or you were taking
2 about environmental -- let me get the right phrase that
3 was used.

4 You were referring to page 5 of your
5 witness statement and you will recall being asked by
6 Ms. Swenarchuk why the phrase 'environmental
7 constraints' showed up under the heading Paper
8 Manufacturing and Pulp Manufacturing but not the
9 Forestry, and in your answer you indicated that through
10 the timber management planning process and other
11 processes you would do what would be required if you
12 met abnormal situations during timber management
13 activities. Did I paraphrase your evidence correctly?

14 A. Yes.

15 Q. And when you made reference to timber
16 management activities, were you referring to the
17 activities of access, harvest, renewal and maintenance
18 that actually occurs out there in the forest?

19 A. Yes, I was, Mr. Chairman.

20 Q. And do you believe, Mr. Boswell, that
21 it is important that the process or any timber
22 management planning process should in fact provide to
23 the -- should provide the flexibility to deal with
24 those situations as they are encountered in the field?

25 A. As long as they're within an overall

1 understanding of what forest management is all about
2 indeed, yes, there must be some flexibility, but only
3 within the guidelines and regulations and principles as
4 established by the jurisdiction.

5 Q. Okay. And so you rely then, I take
6 it, on the Ministry of Natural Resources and the
7 expertise of your own foresters to in fact have that
8 overall understanding of forest management?

9 A. Well, yes, I would like to expand on
10 that a little bit. I think it's the overall expertise
11 of all of our people who are working in the area of
12 concern. I don't think forest management is limited to
13 foresters or forest technicians.

14 All of our employees in the forest have
15 taken an active interest in forest management since the
16 implementation of the forest management agreements, and
17 I would be not inclined to limit it to professionals
18 and/or technicians that have a forestry adjective in
19 front of their names. I think all of our employees
20 have put their heart behind this endeavor.

21 Q. Mr. Macdonald, I think I can go to
22 any of the witness, but I will go to you first. You
23 spoke about the fact that the ontario forest industries
24 and the lumberman manufacturing establishments are in
25 fact here for the long term and that that has been

1 evidenced by the massive amounts of money that have
2 been invested.

3 Could I assume that as a result of your
4 concern for the long term that you would expect and, in
5 fact, believe that your professionals in the field are
6 concerned about the continued productivity of the soil
7 in which the trees that you are harvesting actually
8 grow?

9 MR. MACDONALD: A. Again, not as a
10 forester, but I would certainly expect them to be
11 concerned with all aspects of all the factors that are
12 going to determine what the yield will be when the next
13 crop matures.

14 Q. And would you agree with that general
15 statement, Mr. Boswell.

16 MR. BOSWELL: A. Yes, Mr. Chairman.

17 Q. And I suppose, Mr. Lafreniere, you
18 would as well?

19 MR. LAFRENIERE: A. Yes, Mr. Chairman.

20 Q. And is it a fair statement that you
21 again would rely on the professionalism of your staff,
22 including perhaps in this regard more particularly your
23 foresters, your forest technicians, to in fact ensure
24 that that continued soil productivity is something
25 which -- well, soil productivity is something which

1 continues to in fact exist in the long term, Mr.
2 Macdonald?

3 MR. MACDONALD: A. Yes, in our
4 organization I would certainly be relying on our
5 professional people to be concerned with that and other
6 factors.

7 Q. All right. And the other two panel
8 members, do you agree?

9 MR. BOSWELL: A. Yes, and not limited to
10 that professionalism, Mr. Chairman. I think it's time
11 that we stretched further than we have into outside
12 research sources to find out as much as we can about
13 the forest management activity and that's being done by
14 industry, that's being promoted by industry within this
15 jurisdiction, that more research is required in the
16 biological part of the forest management undertaking.

17 MR. FREIDIN: One moment, Mr. Chairman.
18 ---Discussion off the record

19 MR. FREIDIN: Q. Mr. Macdonald, a
20 question for you. You were discussing the different
21 situation in Alabama as compared to Ontario regarding
22 the setting of standards, and I think you indicated
23 that in Alabama there was a standard and basically the
24 company was given the choice of developing the
25 appropriate processes to in fact achieve that end

1 result. Is that a fair summary of some of your
2 evidence?

3 MR. MACDONALD: A. That refers to the
4 environmental standards proposed by EPA, yes.

5 Q. And I took it from your evidence that
6 one of the things that you felt was positive about an
7 approach of that nature is that it allowed the industry
8 to in fact change, improve its processes and technology
9 in order to get that end result when in fact scientific
10 knowledge or technology in fact developed or improved,
11 you felt that flexibility to adapt in that manner was a
12 good thing?

13 A. I think that's very important and I
14 think it applies not only in the case of mills and
15 processes within the mills, but in the area of forest
16 management as well.

17 The important thing, from my perspective,
18 is to agree on the end point that we are trying to
19 achieve and recognize that industry has the capability,
20 as professionals has the capability to spend money on
21 research on finding ways to optimize the solution while
22 achieving an even better competitive position, and it
23 is important that it have that opportunity to find
24 better ways to reach the goal that we have all agreed
25 on.

1 MR. FREIDIN: Those are my questions Mr.
2 Chairman. Thank you, members of the panel.

3 THE CHAIRMAN: Thank you, Mr. Freidin.

4 MR. COSMAN: Mr. Chairman, perhaps before
5 you rise we might just address you with respect to
6 timing for next week since you are going to consider
7 that over the lunch hour.

8 I would be concerned and I think others
9 would as well if we lost a week, that's my only
10 concern. On my estimate it was three quarters to a day
11 and Ms. Swenarchuk indicated a day, although I think
12 she just indicated it may be two days, a half day for
13 the MOE, an hour for Colborne, so let's say a half day
14 for Colborne and Hunter, we are pretty well -- and MNR,
15 I am not sure, Mr. Freidin.

16 MR. FREIDIN: Well, I think I said a half
17 day. I mean, I think I may have said a half day to
18 make sure I had enough time. There is a good
19 possibility that I would take less. I would certainly
20 attempt to focus any cross-examination I would do if in
21 fact it looked like that could get us finished this
22 panel next week.

23 MR. COSMAN: We have four days next week,
24 Mr. Chairman, and it would be nice to complete another
25 panel.

1 THE CHAIRMAN: Well, that would certainly
2 be the intention I would suspect.

3 MR. FREIDIN: Mr. Chairman, I was just
4 wondering, I think I indicated last say that I had some
5 concern about sitting on Thursday if in fact we do go
6 through Thursday. I said that I could miss the direct
7 examination, I obviously cannot miss the
8 cross-examination, particularly if it's mine.

9 So if we are going to sit the four days,
10 I would want some consideration, if possible, to be
11 given to sitting longer hours to ensure that we could
12 break as early as possible on the Thursday. Thank you.

13 THE CHAIRMAN: Very well. We will break
14 now until two o'clock, and immediately after dealing
15 with the Ministry of the Environment's
16 cross-examination I think we will go right into the
17 scoping session. Sorry, re-examination.

18 Mr. Cosman, how long are you going to be
19 with re-examination?

20 MR. COSMAN: Not very long.

21 THE CHAIRMAN: All right. Well, after
22 that we will go into the scoping session and then
23 finish off for the day. Thank you.

24 ---Luncheon recess taken at 12:30 p.m.

25 ---On resuming at 2:00 p.m.

1 THE CHAIRMAN: Thank you. Be seated,
2 please.

3 Ms. Seaborn, are you ready?

4 MS. SEABORN: Thank you, Mr. Chairman.

5 CROSS-EXAMINATION BY MS. SEABORN:

6 Q. Good afternoon, gentlemen. My name
7 is Jan Seaborn, I am counsel for the Ministry of the
8 Environment. I have some questions for each of you and
9 I don't expect I will be very long this afternoon.

10 Mr. Macdonald, your evidence before this
11 Board is evidence tendered on behalf of Abitibi-Price
12 and the Ontario Forest Industries Association; is that
13 correct?

14 MR. COSMAN: Mr. Chairman, on behalf of
15 the association. All of these witnesses are tendered
16 as witnesses for the associations, plural.

17 THE CHAIRMAN: But, of course, they can
18 speak for their own companies where the evidence
19 pertains to their own companies?

20 MR. COSMAN: Yes, but their evidence
21 technically is that of the associations.

22 THE CHAIRMAN: Very well.

23 MS. SEABORN: And, Mr. Cosman, just for
24 clarification then, there is no doubt that all three
25 witnesses speak on behalf of the OFIA/OLMA and their

1 own companies as well?

2 MR. COSMAN: Well, certainly on behalf of
3 the OFIA/OLMA, those are my clients, I have called them
4 in that capacity.

5 MS. SEABORN: And, Mr. Chairman, I just
6 want to establish that the positions being put forward
7 today are positions on behalf of those two
8 associations.

9 MR. COSMAN: Well, Mr. Chairman, what you
10 have heard is not positions but evidence on behalf of
11 those associations, yes.

12 MS. SEABORN: That is fine. Thank you.

13 Q. Mr. Boswell, is it the position of
14 the OFIA that FMAs should continue to be signed in the
15 Province of Ontario?

16 MR. BOSWELL: A. Very much the position
17 of the OFIA that the forest management agreements
18 should continue and indeed be strengthened based on the
19 knowledge we have accumulated over 10 years.

20 Q. And, Mr. Lafreniere, is it the
21 position of the OLMA that FMAs should continue to be
22 signed in the future in the Province of Ontario?

23 MR. LAFRENIERE: A. Well, Mr. Chairman,
24 I can't say. We don't have a policy set for the OLMA,
25 but personally speaking as president I would encourage

1 all FMA's to continue in the province.

2 Q. And are you president of the OLMA; is
3 that correct?

4 A. That's correct.

5 Q. And would you expect that the members
6 of the OLMA would disagree with Mr. Boswell's statement
7 that the FMA program should continue and in fact be
8 strengthened in the province?

9 A. I can't say that the members would
10 disagree or agree, Mr. Chairman, unless I would put the
11 question to the Board for appropriate answer.

12 Q. Do you have...

13 THE CHAIRMAN: You mean the board of your
14 organization.

15 MR. LAFRENIERE: That's correct, yes.

16 MR. COSMAN: It is the joint position of
17 both associations in this hearing that the FMA program
18 of course, which is not itself before this Board, but
19 to the extent that it relates to planning should be
20 strengthened and should continue.

21 MS. SEABORN: Thank you, Mr. Cosman.

22 Q. Mr. Boswell, you mentioned that you
23 think that the program should be in fact strengthened.
24 In what ways would you like to see that program
25 strengthened?

1 MR. BOSWELL: A. I, Mr. Chairman, can't
2 give you the details in reply to that question, that
3 will be coming out of panels of our technical people,
4 the Industry that follow this panel. Several of the
5 panels will address that question.

6 But there is no doubt I think in
7 anybody's mind that is involved and understands the
8 importance of good forest management that something as
9 massive as this program is and as complex as it is that
10 over a 10-year period we all learn things and those
11 things need addressing and that those types of things,
12 as I understand, are addressed in the forest management
13 agreement task force report that I believe you have
14 before you.

15 That is only in a participatory manner
16 between the Industry and the Ministry to try and
17 strengthen something that we believe is vital to the
18 future of this province.

19 Q. Thank you, Mr. Boswell. Mr. Boswell,
20 does E.B. Eddy have corporate policies similar to those
21 that were filed by Mr. Macdonald on behalf of
22 Abitibi-Price in relation to the Environmental Policy
23 and the Forest Management Policy?

24 A. Yes, we do, Mr. Chairman.

25 Q. And would it be possible to provide

1 us with a copy of those policies?

2 A. Certainly, Mr. Chairman, I can see
3 that that stuff is forwarded to you.

4 THE CHAIRMAN: Very well.

5 MS. SEABORN: Thank you.

6 Mr. Cosman, you have no objection to
7 that?

8 MR. COSMAN: No.

9 MS. SEABORN: Thank you.

10 Q. And just as a matter of interest, Mr.
11 Boswell, would it be your expectation or is it within
12 your knowledge as to whether the member companies of
13 the OFIA would generally have equivalent corporate
14 policies that set out similar principles as those set
15 out by Abitibi-Price?

16 MR. BOSWELL: A. I am afraid, Mr.
17 Chairman, I have no knowledge of all our members and
18 whether they have those policies or not. I do know
19 that they are all part of the association policy which
20 was discussed this morning.

21 Q. And that, Mr. Boswell, was filed as
22 Exhibit 1039, the OFIA Statement of Environmental
23 Policy. Am I correct that you said it was prepared in
24 September, 1989?

25 A. No, Mr. Chairman, the preparation

1 period was somewhat lengthier than that. It was
2 adopted by the Board of Directors in September of '89.

3 Q. And I understand, Mr. Lafreniere,
4 that there is no companion policy that has been
5 prepared by the OLMA?

6 MR. LAFRENIERE: A. No, Mr. Chairman,
7 there isn't.

8 Q. And is the OFIA Environmental --
9 sorry, Statement of Environmental Policy a document
10 that the OLMA could also embrace and endorse?

11 MR. COSMAN: Mr. Chairman, I mean, I
12 think the witness has answered that it at the present
13 time doesn't have its policy formalized in a document,
14 and I don't know whether Mr. Lafreniere as president
15 here today without taking it to the board could --

16 THE CHAIRMAN: Well, I think he already
17 indicated that he couldn't really respond unless it was
18 put directly to his board.

19 MS. SEABORN: Q. Well, perhaps I could
20 leave it this way: If the OLMA does formulate its own
21 Statement of Environmental Policy or equivalent during
22 the course of the hearing, perhaps through your counsel
23 that could be made available?

24 MR. LAFRENIERE: A. Yes, Mr. Chairman,
25 that could.

1 Q. Mr. Macdonald, I have a couple of
2 questions of clarification to ask you with respect to
3 your report which is Exhibit 1030, sub A, and could you
4 turn to page 19, please.

5 And this is the excerpt from the Forest
6 Sector Advisory Council Newsprint Cost Study, the 1987
7 summary of costs in Canadian dollars.

8 MR. MACDONALD: A. Right.

9 Q. Now, you show at the bottom the total
10 delivered cost per finished tonne of newsprint. Is
11 that the delivered cost to U.S. markets?

12 A. Yes, it is.

13 Q. And in looking at the second last
14 line of that chart, on page 19 under delivery I note
15 that under Canada it says 84 and then under Sweden it
16 says 77. And I am wondering if you could tell me why
17 the delivery costs from Sweden to the U.S. is less than
18 the delivery costs from Canada to the U.S.?

19 A. The Swedish tonnage that goes into
20 the U.S. typically goes into a few coastal port cities
21 and so they would be looking at the freight charge from
22 Sweden to the port; whereas the Canadian tonnage is an
23 average of rail and/or truck shipments throughout the
24 U.S. which are substantially more expensive per tone
25 mile.

1 THE CHAIRMAN: But is that not misleading
2 in terms of who is going to use the product from
3 Sweden, it's not just a company that is on a port or in
4 a port city; is it?

5 MR. MACDONALD: Basically, yes, it's the
6 companies in the port cities that use the Swedish or
7 others that are --

8 THE CHAIRMAN: So that is the end
9 destination?

10 MR. MACDONALD: Yes.

11 THE CHAIRMAN: Okay.

12 MS. SEABORN: Thank you.

13 Q. And in relation to your analysis of
14 competitiveness, is the quality of the product taken
15 into account in any of this analysis?

16 MR. MACDONALD: A. Quality of newsprint
17 is a part of the purchase decision by the publisher,
18 but typically the best quality doesn't carry a price
19 premium and the lowest quality is not at a lower price.

20 The publisher will press his supplier for
21 a better quality, but he's not prepared to pay for it.
22 He will continue to press on price as well.

23 Q. Thank you. Mr. Macdonald, in your
24 witness statement and also in your evidence yesterday
25 you briefly addressed the issue of recycling, and as I

1 understand the evidence based on legal and social
2 requirements, the use of recycled fiber in newsprint is
3 the way of the future. Is that a fair summary of what
4 I appreciate is a complex issue?

5 A. There is no question that there is
6 going to be substantially more newsprint sold and used
7 in the future that contains recycled fiber, but our
8 projections which are admittedly somewhat speculative,
9 recognize that there is a limit to the probable
10 recovery rate for old newspapers and there are other
11 markets for the paper.

12 So that something like half the newsprint
13 sold in the U.S. will still be virgin newsprint and of
14 the remainder it will have a substantial portion of
15 virgin fiber in its makeup.

16 Q. And do you view recycling as a
17 positive opportunity for the newsprint industry as a
18 whole, or is it something that you look at from a point
19 of view of being a reality that must be addressed and
20 that what may be associated with that reality are
21 certain financial costs and expenditures in order to
22 address that reality?

23 A. We look at it as very a site-specific
24 decision; that is, that it could be substantially
25 different from one mill compared to another. Because

1 we are anticipating that a lot of the newsprint that
2 will be sold in the future will still be virgin fiber,
3 we don't feel that we have to use recycled fiber at
4 every existing mill location.

5 And so it's not -- I am sorry, I forget
6 your exact words, but it's not something that we have
7 to do in order to comply with the market requirements.
8 Undoubtedly we will have to have a certain portion of
9 recycled fiber, but beyond that we look at it as a
10 decision we make at each mill in relation to whether we
11 can get a return on that investment.

12 Q. Mr. Boswell, I think you had said in
13 your evidence that in your particular business
14 recycling is not something new; is that correct?

15 MR. BOSWELL: A. That's right, Mr.
16 Chairman.

17 Q. And do you see any trends toward
18 recycling as having a potential to expand your business
19 opportunities?

20 A. Absolutely, Mr. Chairman. We have
21 always seen recycling from that viewpoint. The
22 definition surrounding recycling and the amount of
23 post-consumer and post-commercial paper in each and
24 every one of our recycled products presents some
25 interesting specification problems at the moment, but

1 we in the Eddy company embrace the concept of
2 recycling, always have, and have looked upon it and it
3 has indeed been to date very positive had a very
4 positive economic impact as we introduce it, albeit in
5 small amounts, to the sheets of paper that we make.

6 Q. Thank you. Mr. Lafreniere, could you
7 turn to page 18 of your report which is Exhibit 1030B.
8 Do you have that in front of you?

9 MR. LAFRENIERE: A. Yes, I have it in
10 front of me.

11 Q. You have listed at page 18 what you
12 identify as being the major cost factors that
13 contribute to the high cost of the product, and Item 4
14 which has been referred to this week refers to:

15 "Government imposed direct or indirect
16 costs; for example, moose runs and many
17 other environmental and cutting
18 restrictions add significantly to total
19 wood supply costs and per fbm."

20 Could you tell me in the context of that
21 statement what the many other environmental and cutting
22 restrictions are that you are referring to in this
23 paragraph?

24 A. Basically, Mr. Chairman, referring
25 back to the study that we looked at, you know, these

1 costs are related to the costs of doing business in
2 Ontario, plus the additional environmental and cutting
3 restriction, we looked at different -- like new bridge
4 policies, you look at restrictions around lakes or
5 river crossings, and numerous amount of events that the
6 day-to-day person working in the bush have to adhere to
7 related to environment. So basically that is what I
8 meant.

9 Q. And in the context of the statement
10 you said:

11 "Government imposed direct or indirect
12 costs..."

13 And then you went on and gave an example.
14 Were there any other government imposed costs that you
15 were referring to other than the examples that you have
16 given in evidence?

17 A. Well, there is -- there might be some
18 others, but what I was related mostly was on the timber
19 side of it.

20 Q. And what would be any of the other
21 ones other than timber?

22 A. The other one other than timber was,
23 one of the major one is the 15 per cent export tax,
24 that would be it.

25 Q. Okay. And that is dealt with under 1

1 above?

2 A. Yes.

3 Q. I am thinking of anything extra in
4 the context of this statement?

5 A. Not necessarily, no.

6 Q. Now, with respect to the seven items,
7 has any attempt been made to place a ranking or degree
8 of impact on these items in terms of what are the most
9 significant factors that are attributable to high cost,
10 or is there any ranking inherent in these seven items;
11 that is what I am asking?

12 A. Well, Mr. Chairman, I don't know if
13 there is a particular rank. I think all aspects of the
14 costs involved in doing business are an important ratio
15 of your general costs, but if you want to compare any
16 items that would have the highest cost would probably
17 be the logging and the cutting would be one of your
18 highest costs and some of those components.

19 Q. And that would be Item 2, logging and
20 hauling costs of roundwood??

21 A. Most likely, yes.

22 Q. Okay. Now, with respect to the
23 report that was tendered yesterday, Exhibit 1035, Mr.
24 Freidin asked some questions about the report
25 preparation and I understand Ms. Laroche who prepared

1 the report is not a professional forester?

2 A. No, Mr. Chairman, she's not.

3 Q. And do you know if she is a
4 biologist?

5 THE CHAIRMAN: She is a forest technician
6 according to the front page.

7 MS. SEABORN: That's correct, but not a
8 registered professional forester.

9 MR. LAFRENIERE: No, she's not.

10 MS. SEABORN: Q. And she's not a
11 biologist; is she, or are you aware?

12 MR. LAFRENIERE: A. I have no knowledge
13 if she is or not, no.

14 Q. And this study was an internal study
15 prepared for Superior Forest Management Limited?

16 A. That's correct, Mr. Chairman.

17 Q. And Superior Forest Management
18 Limited is the FMA holder?

19 A. That's correct, Mr. Chairman.

20 Q. And are you aware as to whether the
21 study was reviewed for comment by either a professional
22 forester or a biologist?

23 A. The study was done under the
24 supervision of one of the employees of the Superior
25 - Forest Management Company, L. Tremblay, which is a

1 professional forester and Mr. George Broomer who is the
2 manager of that company.

3 Q. I am sorry, who was the second
4 person?

5 A. George Broomer is a professional
6 forester and also the manager of Superior Forest
7 Management.

8 Q. And to your knowledge these gentlemen
9 reviewed the report?

10 A. Yes, Mr. Chairman, they have.

11 Q. Thank you. And do you know whether
12 any of the either forest technicians or the
13 professional foresters who work for Superior Forest
14 Management Limited have ever had any training from MNR
15 or industry in the application of guidelines?

16 A. Well, Mr. Chairman, we hire people
17 that work for our company on the basis of their
18 qualification, and so we don't question if they work
19 for the Ministry or not.

20 Q. No, I am not suggesting that. There
21 has been evidence during this hearing as to
22 professional training programs with respect to things
23 such as application of guidelines and other matters
24 and. I would be interested in knowing whether any --
25 either this woman who prepared the report or any of the

1 other foresters or forest technicians have ever had any
2 training with respect to application of guidelines?

3 MR. COSMAN: Mr. Chairman, you do have
4 the evidence - and this may well help, Ms. Seaborn -
5 that Superior Forest Products and their foresters that
6 prepared the timber management plan for that FMA. So
7 they were involved in the timber management planning
8 process for the FMA in question, which automatically
9 means they would have to be familiar with the
10 guidelines.

11 MS. SEABORN: Thank you, Mr. Cosman.

12 Q. Mr. Boswell, does the OFIA and E.B.
13 Eddy share the concerns that are set out by Mr.
14 Lafreniere with respect to the costs associated with
15 the application of guidelines?

16 MR. BOSWELL: A. Are you referring to
17 Item 4?

18 Q. That's correct.

19 A. Indeed we do. I guess the concern,
20 Mr. Chairman, that we would have there may have been
21 referred to on several other occasions in the last
22 couple of days; and, that is, that the moving target
23 concept of guidelines and areas of concern being
24 introduced as part of the planning process, are
25 regulations that impact those costs very significantly

1 running up in their totality.

2 A guideline here on an area of concern,
3 implication there. It is very difficult. Our
4 professional people and all of our management people
5 are having great difficulty in tying that down and
6 being able to quantify it because it is changing at
7 such a significant pace I think; and, therefore, we
8 have those concerns.

9 We have seen them individually expressed
10 at times such as budget presentations on an annual
11 budget presentation, but to quantify them at any given
12 time is a very difficult task and I was delighted to
13 see that Mr. Lafreniere had tried to do that..

14 Our people have done that for certain
15 parts of guidelines and areas of concern, but to bring
16 the whole thing together at any one time is virtually
17 impossible because things are changing.

18 Q. Mr. Boswell, has the OFIA or E.B.
19 Eddy conducted similar studies with respect to the one
20 that was filed yesterday setting out economic costs of
21 reserves, and I am speaking of course beyond what has
22 been filed in relation to Panel 2?

23 A. Mr. Chairman, no, not as studies. We
24 have considered the economic implications of, as I just
25 said, of certain specific guidelines from time to time,

1 but not as a study onto itself.

2 Q. And, Mr. Macdonald, does E.B. Eddy
3 share these concerns as well?

4 THE CHAIRMAN: You can speak for Abitibi
5 too.

6 MS. SEABORN: Oh, sorry. I am sorry.

7 Q. Sorry, Mr. Macdonald, Abitibi-Price.
8 Do you share those concerns?

9 MR. MACDONALD: A. Yes, we do.

10 Q. And to your knowledge, has
11 Abitibi-Price conducted or commissioned any studies in
12 this regard?

13 A. I am not aware of any studies that
14 quantify it in that regard.

15 MR. COSMAN: This is apart, Mr. Chairman,
16 from the evidence filed in Panel 2 which specifically
17 addresses this. I presume that is the question?

18 MS. SEABORN: That's correct, Mr. Cosman.
19 And, Mr. Chairman, my only concern here
20 is that we have received this report yesterday. I
21 looked at it last night, I think it's quite interesting
22 and perhaps quite useful information, and I just want
23 to be sure if there is anything else along these lines
24 that we can have a look at it as well beyond what we
25 have seen with respect to Panel 2.

1 THE CHAIRMAN: Well, you won't be having
2 these witnesses provide the answers, but maybe it can
3 be looked at.

4 MS. SEABORN: Well, I understand that,
5 but that was the purpose of my questions, if they are
6 aware of other studies - I know we won't have these
7 witnesses back - they may be helpful to all parties.

8 Q. Mr. Macdonald, I just want to have a
9 look at the moment at Exhibit 1040 which is the
10 Abitibi-Price summary of company expenditures and
11 compensation under FMAs. And, Mr. Macdonald --

12 MR. MACDONALD: A. Excuse me, this one?
13 (indicating)

14 Q. Yes, that's correct.

15 You are aware as part of the FMA
16 requirements that where regeneration has failed
17 companies must retreat the area at their own expense?

18 A. Yes, I am.

19 Q. And with respect to Exhibit 1040, do
20 these figures include expenditures incurred for the
21 treatment of failures?

22 A. If there were such failures, I
23 believe these expenditures would include them, but I
24 think there were few, if any, failures where we had to
25 go back and go at it again.

1 MS. SEABORN: Mr. Cosman, I am wondering
2 if we could have a breakdown, a further breakdown of
3 these figures and to the extent that any of these
4 figures include retreatment as a result of failures, I
5 would like to see that breakdown.

6 THE CHAIRMAN: What use would that be,
7 Ms. Seaborn, over and above what the witness has just
8 said, that he believes that it would include such
9 failures but they have been far and few between to his
10 knowledge?

11 MS. SEABORN: Well, I would just be
12 interested in seeing the breakdown, Mr. Chairman.

13 THE CHAIRMAN: Mr. Cosman, is that a
14 difficult thing to obtain?

15 MR. COSMAN: I'm not sure, Mr. Chairman.
16 Perhaps once the cross-examination is over I will make
17 inquiries and advise accordingly.

18 THE CHAIRMAN: Very well.

19 MS. SEABORN: Q. And in any event, Mr.
20 Macdonald, if there were such failures they would show
21 up in this column, they would be included as part of
22 the figures in this column?

23 MR. MACDONALD: A. I can't answer that
24 positively. I'm now not sure whether this includes any
25 failures.

1 Q. Okay.

2 A. I really don't think there have been
3 any where the Ministry has judged that there is a
4 failure and it has to be regenerated again.

5 MS. SEABORN: Just to be clear, Mr.
6 Chairman, that's really the question I am more
7 interested in. When one is looking at these figures,
8 would they include retreatment as a result of failures
9 or not and I think Mr. Macdonald has said he isn't
10 sure, so if Mr. Cosman could make inquiries in that
11 regard that's what I am more interested in knowing.

12 MR. COSMAN: I will make those inquiries
13 and report to the Board.

14 MS. SEABORN: Thank you.

15 THE CHAIRMAN: Thank you.

16 MS. SEABORN: Those are all my questions,
17 Mr. Chairman.

18 THE CHAIRMAN: Thank you, Ms. Seaborn.

19 MRS. KOVEN: Mr. Boswell, I have a
20 question for you and perhaps Mr. Macdonald as well and
21 that is: Do you think the public have reasonable
22 expectations about the extent to which your company can
23 minimize environmental impacts?

24 MR. BOSWELL: I, Mr. Chairman, am a
25 little concerned about words such as reasonable. I'm

1 not sure what that means, but I will take it in good
2 faith that I think I understand what it means, and it
3 means to me that the public I think wants us to do what
4 is technically feasible to do in terms of safeguarding
5 the environment in both the processes of our mills and
6 our forest operations; yes, I think they have a
7 reasonable expectation, but I don't know how you would
8 quantify that word reasonable.

9 MRS. KOVEN: Do you differentiate between
10 your publics; for example, do you see a more primary
11 responsibility going to those communities in which you
12 operate, in which your employees live and work,
13 compared to southern Ontario, compared to the rest of
14 the province that might not seem as directly affected?

15 MR. BOSWELL: Again, that's a matter of
16 degree, Mr. Chairman, and it would be misleading of me
17 to tell you as a Board that we aren't very conscious of
18 the towns and villages in which we carry out our
19 operations because in our business, at least, we have
20 developed what we think is a phenomenally well trained,
21 skilled work force and that would lead us to being
22 concerned about them, but that's not to disregard the
23 rest of the public in this jurisdiction.

24 MRS. KOVEN: Thank you.

25 M. Lafreniere, J'ai quelques questions

1 pour vous, Monsieur, et tant pis il faut les poser en
2 Anglais.

3 MR. LAFRENIERE: Okay.

4 MRS. KOVEN: About the 15 per cent export
5 tax, have the provincial and federal governments
6 attempted to do anything to soften the blow of those
7 taxes on your industry?

8 MR. LAFRENIERE: Not directly, Mr.
9 Chairman. We are paying the 15 per cent export tax
10 and, as Mr. Boswell stated yesterday in one of his
11 statements, get it off the bottom line.

12 MRS. KOVEN: And a second question, do
13 you have predictions about the effect of free trade on
14 your company particularly?

15 MR. LAFRENIERE: On our product, we are
16 exempted from the free trade agreement. On material
17 purchase and so on, we might benefit indirectly, but on
18 the product that we sell we're exempt from.

19 MRS. KOVEN: Okay, thank you.

20 THE CHAIRMAN: Thank you.

21 Mr. Cosman, are you ready for
22 re-examination?

23 MR. COSMAN: Yes, Mr. Chairman.

24 RE-DIRECT EXAMINATION BY MR. COSMAN:

25 Q. Perhaps I should start -- I will

1 address this to Mr. MacDonald. You were asked a number
2 of questions, Mr. Boswell as well, by Ms. Swenarchuk in
3 respect to the occupational health and safety record of
4 the industry and you were presented by -- an inquiry
5 into mining and safety or a few pages from that
6 document.

7 I am going to show you another document
8 which is the Annual Report of the Forest Product
9 Accident Prevention Association that has later figures
10 sourced from the Workmen's Compensation Board.

11 I wonder if I could file that, Mr.
12 Chairman?

13 THE CHAIRMAN: Very well. That will be
14 Exhibit 1044.

15 MR. COSMAN: (handed)

16 THE CHAIRMAN: Thank you.

17 --EXHIBIT NO. 1044: Annual Report of the Forest
18 Product Accident Prevention
Association.

19 MR. COSMAN: Q. Perhaps I can address it
20 to either of Mr. Macdonald or Mr. Boswell.

21 With respect to compensable injuries by
22 rate group, I would refer you to the graph which is the
23 top graph on the page which shows a breakdown by
24 logging, sawmill and veneer plywood comparison, and I
25 wonder if you might just, having regard to the fact

1 that we are looking at it, indicate what the trend
2 shows from 1984 right through to 1988?

3 MR. MACDONALD: A. The trend in total
4 number of compensable injuries in logging rate group is
5 certainly downward from 1,500 per year to just under
6 800 per year at a rather steady decline.

7 Q. While you are at it, why don't you
8 finish off?

9 A. The number of injuries in the sawmill
10 group is approximately constant, and the veneer plywood
11 shows possibly a slight uptrend, it's not very clear.

12 Q. All right.

13 A. But at a much lower level.

14 Q. Now, with respect to another matter,
15 Mr. Macdonald, you were cross-examined by Ms.
16 Swenarchuk in respect of the portion of your report on
17 page 35 which was under your description of need for
18 certainty in investment decision-making.

19 And I know that you have indicated in
20 your evidence that you support the policies as
21 progressive legislation and you indicated that these
22 were examples to show how legislative change can create
23 uncertainty, but Ms. Swenarchuk cross-examined you in
24 respect of a number of the items there and my question
25 to you is very simply: On the basis of the

1 cross-examination that was provided to you -- that was
2 conducted of you, has your opinion changed whatsoever
3 or at all with respect to the need for certainty in
4 respect of investment decision making -- or in
5 investment decision-making, rather?

6 A. Not at all. I still believe that the
7 nature of the investments we make is a long-term
8 investment and certainly we are more inclined to make
9 that form of investment where we see a somewhat more
10 predictable environment.

11 Q. Now, Ms. Seaborn directed some
12 inquiry to you with respect to a further breakdown of
13 your information as to expenditures for regeneration
14 over and above that which government makes, and I think
15 you indicated that the total is \$8,525,000, and she
16 indicated to you that you have a liability for
17 failures.

18 So is it fair to say that in addition to
19 the \$8-million that the company pays over and above
20 that which government funds, you must consider yourself
21 to have a contingent liability as a company with
22 respect to regeneration that doesn't succeed?

23 A. As I responded to Ms. Seaborn, I
24 don't know whether the cost -- whether there are any
25 previous failures and, if so, whether the cost is

1 included in that column, but in terms of the future,
2 there is a contingent liability.

3 We do have the obligation to go back and
4 deal again with any area that is judged to have been
5 insufficiently regenerated, but I would have to say
6 that I don't think that that's a huge liability because
7 of our professional foresters' capability in handling
8 the regeneration adequately in the first place.

9 Q. Perhaps then I could ask Mr. Boswell,
10 in that respect, is it fair to say that the company
11 statement of what it is actually paid over and above
12 government expenditure may in fact be less than that
13 which really the company has committed to in respect of
14 regeneration?

15 MR. BOSWELL: A. Mr. Chairman, I too
16 have difficulty in knowing exactly what is in that
17 figure I gave you yesterday in terms of insufficiently
18 regenerated area, but I tell you and the Board that the
19 commitment is there and there is in the minds of
20 everybody at the Eddy company and its shareholders, I
21 might add, an unfunded liability that we will do that
22 work if that situation should rise.

23 MR. COSMAN: Those are my questions, Mr.
24 Chairman.

25 THE CHAIRMAN: Thank you.

1 MR. COSMAN: Mr. Chairman, I only have
2 one other -- perhaps it's a request for direction.

3 Ms. Swenarchuk in her cross-examination
4 put into evidence or filed some documents which
5 suggested there were a number of spills. You know, I
6 am instructed that there was no significant adverse
7 impact on the environment by those spills, but I don't
8 know whether I should now have to call evidence to
9 address this issue with respect to mills in this
10 hearing.

11 I don't know if you can assist me or
12 perhaps even Ms. Swenarchuk can assist me as to what
13 extent this is going to become an issue because if it
14 is, I think quite fairly to my clients I would want to
15 respond by calling evidence to demonstrate what I am
16 advised is fact.

17 THE CHAIRMAN: Well, Ms. Swenarchuk, the
18 focus of the hearing, as you are aware, is on the
19 timber management planning process. This is not,
20 strictly speaking, an inquiry into pulp and paper mills
21 and their relative operations and safety. There are
22 other forums that are looking into those questions, I
23 believe.

24 If we are going to get into that area, to
25 what extent do you intend to go into that area? And I

1 think Mr. Cosman is quite correct, if you are going to
2 bring in evidence in terms of the fact there were such
3 incidents, then it is only fair for the so-called
4 perpetrators of those incidents to be able to call
5 evidence to show that their environmental impact was or
6 was not minimal.

7 However, it would not be the view of the
8 Board that it would be productive to the undertaking
9 that is before us to go into that area of inquiry in
10 the first place, unless you can indicate to us how it
11 is relevant.

12 MS. SWENARCHUK: As I indicated earlier,
13 Mr. Chairman, in our view the issue was raised through
14 the witness statements of the witnesses who are here
15 today and we have not referred to this issue in the
16 past --

17 THE CHAIRMAN: Well, notwithstanding the
18 issues was raised - I'm not certainly going to indicate
19 in any sense that it was not raised in terms of the
20 witness statement and perhaps indirectly in terms of
21 the direct examination - but notwithstanding that, is
22 that a sufficient reason for this inquiry in the
23 undertaking before the Board to go off on a tangent
24 into something that could be quite lengthy and
25 intensive in its own right?

1 MS. SWENARCHUK: It was my intention to
2 continue, Mr. Chairman, to say that it is not our
3 intention to pursue the matter in greater detail.

4 THE CHAIRMAN: So, therefore, I guess in
5 answer to your question, Mr. Cosman, it would not be
6 necessary to call further evidence relating to the
7 impact of those particular incidents.

8 MR. COSMAN: Thank you, Mr. Chairman.

9 THE CHAIRMAN: Anything else from any of
10 the other parties before we go on to the scoping?

11 (no response)

12 Perhaps we can take just a ten-minute
13 adjournment and then we will come back and conduct the
14 scoping exercise.

15 Panel, I think you can step down at this
16 point. Thank you for coming.

17 ---(Panel withdraws)

18 ---Recess taken at 2:47 p.m.

19 ---On resuming at 3:05 p.m.

20 THE CHAIRMAN: Thank you. Be seated,
21 please. It looks like we lost most of our audience.

22 MS. SEABORN: Back to the hard core
23 group.

24 THE CHAIRMAN: Okay, ladies and
25 gentlemen, we have reviewed the witness statements and

1 the various statements of issue. As you can
2 appreciate, the reports dealing with Panel 2 are fairly
3 comprehensive and also voluminous. We do have two or
4 three questions the Board wants to raise with respect
5 to the two reports.

6 Firstly, we can deal with Michael Ross'
7 report which is in two volumes. Dealing with page 22,
8 Volume I, it refers in there in the paragraph about
9 halfway down the page, the first bullet in the bottom
10 half of the page to bonus payments -- both Crown dues
11 and bonus payments. We are not sure that we have come
12 across that term before. We would like to know: What
13 are they, are these extra fees or charges levied for
14 high quality timber, or exactly what are they.

15 Then it also talks about increases in
16 stumpage fees from 1983 to 1989. It implies that the
17 stumpage fees have increased. We would like to know
18 whether or not that is in accord with the evidence we
19 have heard about stumpage fees increasing in the sense
20 that the volume harvested has increased.

21 We have heard evidence over the fact that
22 as volumes go up stumpage fees levied on those volumes
23 also go up, but are we talking about an increase, I
24 suppose, in the percentage rates of the stumpage fees
25 themselves between those years.

1 Now, with respect to the two case
2 studies - this is again in the Ross report - of Abitibi
3 and Midway, under the Abitibi one the assumption is
4 made that MNR would not cover increased cost of roads
5 under the FMA agreement procedure. We would like to
6 know whether or not this is based on some knowledge by
7 the Industry to the effect that MNR is going to either
8 reduce or limit subsidies for roads in the future, or
9 whether that is just a supposition on their part, to
10 the extent that they can advise us.

11 Also with respect to planning costs,
12 what is a planning cost as it is used in the report per
13 se. I think that's page 27, Volume II, I believe.

14 MR. FREIDIN: Do you have a page
15 reference for the comment about the road payments by
16 MNR, Mr. Chairman?

17 THE CHAIRMAN: Well, Mrs. Koven is going
18 to find that page reference for you. I have to take a
19 phone call for a moment. Excuse me.

20 ---(Chairman withdraws)

21 MR. CASSIDY: Is that page 26, Mrs.
22 Koven, at the very bottom?

23 MRS. KOVEN: That's one reference. It
24 shows up in a couple of different places. That's one
25 reference to it.

1 MR. CASSIDY: The planning costs would be
2 at page 27?

3 MRS. KOVEN: Yes, that's where they talk
4 about the Camp 11 planning costs as being \$25,000 a
5 year.

6 MR. CASSIDY: Yes, thank you.

7 ---(Chairman re-enters)

8 THE CHAIRMAN: I apologize.

9 Now, with respect to the presentation of
10 the evidence in the sense of the statements of issue,
11 the Industry is putting forth the position that they
12 essentially agree with everything subject to three or
13 four exceptions that were put forward by the Ministry
14 of Natural Resources in Panel 5.

15 And there are three or four differences,
16 for instance, MNR excluded the forestry services sector
17 contribution essentially from their evidence; MNR
18 excluded the impact of capital expenditures from their
19 evidence in Panel 5; and Industry indicated that you
20 don't have to do an economic quantitative analysis of
21 alternatives using case studies necessarily. Industry
22 said you can do that, MNR indicated in Panel 5 that
23 that perhaps wasn't necessary.

24 What we would like to know is - and I
25 don't know to the extent that you will be able to

1 answer that - did Industry and MNR consult on this area
2 prior to putting forward their respective positions?

3 MR. COSMAN: No, Mr. Chairman.

4 THE CHAIRMAN: Okay.

5 MR. COSMAN: I can advise that I did not
6 consult with respect to the case study that was
7 prepared by Industry.

8 THE CHAIRMAN: Okay. We were just not
9 concerned, but we noticed that there were certain
10 parallels in the fact that Industry was not necessarily
11 taking issue with the Ministry's evidence in Panel 5
12 and we just wondered whether or not there had been
13 consultation, but we will accept your statement, Mr.
14 Cosman, that there was not.

15 Now, with respect to the issue of
16 inflexible guidelines, is Industry saying that the
17 guidelines as written are unacceptable because of the
18 potential that they might apply more stringently, or
19 are they in effect indicating that the guidelines as
20 they are presently written are too inflexible?

21 Now, we heard some evidence, as you can
22 appreciate, over the fact that the guidelines might be
23 applied somewhat differently, for instance, if it were
24 a moose habitat that was supportive of moose
25 populations, they might be applied somewhat less

1 stringently than an area that was less supportive of
2 moose populations; notwithstanding they would be
3 applied and the guidelines would be adhered to, it is
4 just the degree to which they would apply.

5 And we would like to know whether or not
6 the Industry's reference to inflexible guidelines
7 refers to the degree to which they are applied, or
8 whether or not the guidelines should be in place in the
9 context of which they are presently written. I don't
10 know if that's clear enough.

11 MR. COSMAN: Yes, Mr. Chairman. Just on
12 that issue. I am not certain if the two outside
13 consultants are the people who are going to be able to
14 assist the Board with an answer to that question, but I
15 will ensure that my clients put that position very
16 clearly before the Board.

17 THE CHAIRMAN: Okay.

18 MR. COSMAN: Put their position very
19 clearly before the Board.

20 MR. FREIDIN: Just so I understand, when
21 you say that the guidelines may apply more stringently
22 and may be unacceptable because of that, I understand
23 you to be saying: Could be applied stringently with
24 rigor or without rigor and, therefore, the result in
25 terms of what will happen once it is applied cannot be

1. determined sort of definitively in advance because
2. there is a range. Is that basically...?

3. MRS. KOVEN: That's part of it. It just
4. wasn't very clear to us in the presentation of the
5. charts on current guidelines versus the inflexible
6. guidelines scenario, we weren't exactly clear what
7. that was to mean, because the inflexible guidelines
8. looked to us to be also the guidelines that are before
9. the hearing, and we thought it was in terms of how the
10. MNR would implement them as opposed to their content
11. specifically.

12. THE CHAIRMAN: All guidelines obviously
13. contain some kind of range, you know, there is not a
14. specific thing in some cases that have to be done,
15. there are judgments to be made by the professional
16. staff applying them, and we would like to know what is
17. meant as far as the Industry is concerned by
18. inflexibility.

19. MR. COSMAN: You will certainly hear on
20. Panel 2 what the consultants understood for purposes of
21. their study. You will get from me either personally or
22. through other witnesses the position of the Industry.

23. I think that's fair, Mr. Chairman. But
24. you will certainly understand the basis upon which they
25. prepared their study from them.

1 MRS. KOVEN: We also had a question about
2 the Midway Lumber case study on page 31 of Volume II
3 where they discuss the fact that they could only use 27
4 per cent of the timber that they harvested.

5 And we understand essentially what the
6 problem is, but it seems to us that we have heard
7 evidence to the effect that if there is a supply
8 problem the Ministry of Natural Resources will look for
9 an alternative allocation; for example, if there is a
10 fire or a large area is destroyed by pests, there is a
11 provision to somehow supplement a harvest area.

12 That may not be exactly the problem these
13 people are facing because they are talking about
14 scattered areas for harvest in this particular
15 allocation. But we want to know if that's the kind of
16 solution that the company looks to the Ministry of
17 Natural Resources for, or what happens once they find
18 themselves in the situation they are in.

19 THE CHAIRMAN: We don't have any
20 particular comments on the Watson report at this time
21 and we don't find either any problem with the
22 statements of issue as put forward by the other
23 parties.

24 Mr. Cosman, you may want to question some
25 of the other parties with respect to anything in their

1 statements of issue to try and require clarification.

2 We also received today, I think it was,
3 the statement of issues of the Grand Council Treaty No.
4 3.

5 MR. COSMAN: We received that--

6 THE CHAIRMAN: Have you got that as well?

7 MR. COSMAN: --apparently.

8 THE CHAIRMAN: Okay. We haven't really
9 examined that, so I can't tell you if there is any
10 problem with it, but...

11 MR. CASSIDY: Just to advise the Board, I
12 spoke to Mr. Colborne this morning and I made him aware
13 that you would move the scoping session up to this
14 afternoon. He indicated he was aware of that and he
15 indicated that he does intend to be in Toronto next
16 week and does intend to cross-examine this panel for
17 approximately one hour.

18 MR. COSMAN: Mr. Chairman, to the extent
19 that I have not over the last two days had the
20 opportunity to examine in great detail the scoping
21 statements which have been received over the last few
22 days, I will certainly do that with counsel directly if
23 there is any uncertainty.

24 THE CHAIRMAN: All right. Well, we don't
25 find anything particularly at issue with those.

1 All right. We will adjourn until 10:00
2 a.m. on Monday -- oh, sorry, Ms. Seaborn.

3 MS. SEABORN: Mr. Chairman, just one
4 question. With respect to after next week, I believe
5 the schedule has been put out that we would be sitting
6 the week of March 5th and, if we do in fact finish
7 Panel 2 next week, that would mean that--

8 THE CHAIRMAN: Put us back in Thunder
9 Bay.

10 MS. SEABORN: --we would be back in
11 Thunder Bay that week, and the days that are set aside
12 are set aside on the basis of sitting in Toronto the
13 Monday to Thursday. And I am just wondering if the
14 Board intends to change the times if they could perhaps
15 let us know next week because we will have to make
16 flight arrangements.

17 THE CHAIRMAN: All right. Why don't we
18 let you know first thing next week.

19 MS. SEABORN: Thank you.

20 MR. CASSIDY: Is the issue there whether
21 or not we sit Monday to Thursday as opposed to Tuesday
22 through Thursday. Is that what you had in mind, Ms.
23 Seaborn?

24 MS. SEABORN: Yes.

25 MR. CASSIDY: Great. I would appreciate

1 that too, if you would beforehand.

2 THE CHAIRMAN: Okay.

3 MS. SWENARCHUK: I assume then we are
4 doing cross-examination next week?

5 THE CHAIRMAN: Yes. We are going to
6 attempt to go through the cross-examination next week
7 and finish Panel 2. Whether we will be successful in
8 that, we don't know.

9 Thank you.

10 ---Whereupon the hearing adjourned at 3:35 p.m., to be
11 reconvened on Monday, February 12th, 1990,
12 commencing at 10:00 a.m.

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